THE ORIGINS AND EVOLUTION OF THE PALESTINE PROBLEM

1917-1988

UNITED NATIONS

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1917-1988

Prepared for, and under the guidance of, the Committee on the Exercise of the Inalienable Rights of the Palestinian People

UNITED NATIONS
New York, 1990

FOREWORD

This study has been prepared by the Division for Palestinian Rights of the United Nations Secretariat for, and under the guidance of, the Committee on the Exercise of the Inalienable Rights of the Palestinian People, in pursuance of General Assembly resolution 32/40 B of 2 December 1977. The study was published in keeping with the following guiding principles suggested by the Committee:

> "The study should place the problem in its historical perspective, emphasizing the national identity and rights of the Palestinian people. It should survey the course of the problem during the period of the League of Nations Mandate and show how it came before the United Nations. It should also cover the period of United Nations involvement in the problem."

The study is in four parts covering the period 1917 to December 1988.

Part I, published in 1978, offers historical background of the question of Palestine reaching as far back as 1915. This part surveys in detail the period 1917 to 1947, during most of which Palestine was governed under a mandate granted by the League of Nations.

Part II, published in 1979, covers the evolution of the Palestine problem from the time it was taken up in the United Nations to the late 1970s, i.e. 1947 to 1977.

Part III, published in 1984, deals with further development of the question of Palestine into the 1980s and covers the period 1978 to 1983.

Part IV, added in 1990 to the three previously published parts, covers the period 1984 to 1988, during which a series of landmark events took place. These developments signified a qualitatively new phase in the evolution of this long-standing political, socio-economic, humanitarian and moral problem, still awaiting its resolution.

Note should be made that the present study consists of the four parts, published in different years, and consolidated in one volume for the convenience of the reader.

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PART I

1917-1947

INTRODUCTION

The question of Palestine was brought before the United Nations shortly after the end of the Second World War.

The origins of the Palestine problem as an international issue, however, lie in events occurring towards the end of the First World War. These events led to a League of Nations decision to place Palestine under the administration of Great Britain as the Mandatory Power under the Mandates System adopted by the League. In principle, the Mandate was meant to be in the nature of a transitory phase until Palestine attained the status of a fully independent nation, a status provisionally recognized in the League's Covenant, but in fact the Mandate's historical evolution did not result in the emergence of Palestine as an independent nation.

The decision on the Mandate did not take into account the wishes of the people of Palestine, despite the Covenant's requirements that "the wishes of these communities must be a principal consideration in the selection of the Mandatory". This assumed special significance because, almost five years before receiving the mandate from the League of Nations, the British Government had given commitments to the Zionist Organization regarding the establishment of a Jewish national home in Palestine, for which Zionist leaders had pressed a claim of "historical connection" since their ancestors had lived in Palestine two thousand years earlier before dispersing in the "Diaspora".

During the period of the Mandate, the Zionist Organization worked to secure the establishment of a Jewish national home in Palestine. The indigenous people of Palestine, whose forefathers had inhabited the land for virtually the two preceding millennia felt this design to be a violation of their natural and inalienable rights. They also viewed it as an infringement of assurances of independence given by the Allied Powers to Arab leaders in return for their support during the war. The result was mounting resistance to the Mandate by Palestinian Arabs, followed by resort to violence by the Jewish community as the Second World War drew to a close.

After a quarter of a century of the Mandate, Great Britain submitted what had become "the Palestine problem" to the United Nations on the ground that the Mandatory Power was faced with conflicting obligations that had proved irreconcilable. At this point, when the United Nations itself was hardly two years old, violence ravaged Palestine. After investigating various alternatives the United Nations proposed the partitioning of Palestine into two independent States, one Palestinian Arab and the other Jewish, with Jerusalem internationalized. The partition plan did not bring peace to Palestine, and the prevailing violence spread into a Middle East war halted only by United Nations action. One of the two States envisaged in the partition plan proclaimed its independence as Israel and, in a series of successive wars, its territorial control expanded to occupy all of Palestine. The Palestinian Arab State envisaged in the partition plan never appeared on the world's map and, over the following 30 years, the Palestinian people have struggled for their lost rights.

The Palestine problem quickly widened into the Middle East dispute between the Arab States and Israel. From 1948 there have been wars and destruction, forcing millions of Palestinians into exile, and engaging the United Nations in a continuing search for a solution to a problem which came to possess the potential of a major source of danger for world peace.

In the course of this search, a large majority of States Members of the United Nations have recognized that the Palestine issue continues to lie at the heart of the Middle East problem, the most serious threat to peace with which the United Nations must contend. Recognition is spreading in world opinion that the Palestinian people must be assured its inherent inalienable right of national self-determination for peace to be restored.

In 1947 the United Nations accepted the responsibility of finding a just solution for the Palestine issue, and still grapples with this task today. Decades of strife and politico-legal arguments have clouded the basic issues and have obscured the origins and evolution of the Palestine problem, which this study attempts to clarify.

I. THE BEGINNINGS OF THE PALESTINE ISSUE

The disintegration of the Ottoman Empire

By the turn of the century, the "Eastern question" was a predominant concern of European diplomacy, as the Great Powers manoeuvred to establish control or spheres of influence over territories of the declining Ottoman Empire. "The dynamics of the Eastern question thus lay in Europe" 1/ and the issue finally was resolved by the defeat of Turkey in the First World War.

While the war was at its height and the disintegration of the Ottoman Empire became clearly imminent, the Entente Powers already were negotiating over rival territorial ambitions. In 1916 negotiations between Britain, France and Russia, later also including Italy, led to the secret Sykes-Picot agreement on the allocation of Ottoman Arab territories to spheres of influence of the European Powers (annex I). Since places sacred to three world religions were located there, an international régime was initially envisaged for Palestine which, however, eventually was to come under British control.

Although the European Powers sought to establish spheres of influence, they recognized that sovereignty would rest with the rulers and people of the Arab territories, and the Sykes-Picot agreement specified recognition of an "independent Arab State" or "confederation of Arab States". This reflected the recognition of regional realities, since the force of emergent Arab nationalism constituted a major challenge to the supra-national Ottoman Empire. Arab nationalism sought manifestation in the form of sovereign, independent national States on the European model. Great Britain's aims in the war linked with these Arab national aspirations and led to assurances of sovereign independence for the Arab peoples after the defeat of the Axis Powers.

Anglo-Arab understandings on Arab independence

These assurances appear in correspondence 2/ during 1915-1916 between Sir Henry McMahon, British High Commissioner in Egypt, and Sherif Husain, Emir of Mecca, who held the special status of the Keeper of Islam's most holy cities. He thus acted as a representative of the Arab peoples, although not exercising formal political suzerainty over them all.

In the course of the protracted correspondence, the Sherif unequivocally demanded "independence of the Arab countries", specifying in detail the boundaries of the territories in question, which clearly included Palestine. McMahon confirmed that "Great Britain is prepared to recognize and support the independence of the Arabs in all the regions within the limits demanded by the Sherif of Mecca".

To assuage Arab apprehensions aroused by the revelation of the Sykes-Picot agreement by the Soviet Government after the 1917 revolution, and by certain conflicting statements of British policy (see sect. II below), further assurances followed concerning the future of Arab territories.

A special message (of 4 January 1918) from the British Government, carried personally by Commander David George Hogarth to Sherif Husain, stated that "the Entente Powers are determined that the Arab race shall be given full opportunity of

once again forming a nation in the world ... So far as Palestine is concerned, we are determined that no people shall be subject to another". 3/

Six months after General Allenby's forces had occupied Jerusalem, another declaration, referring to "areas formerly under Ottoman dominion, occupied by the Allied Forces during the present war", announced "... the wish and desire of His Majesty's Government that the future government of these regions should be based upon the principle of the consent of the governed, and this policy has and will continue to have support of His Majesty's Government". 4/

A joint Anglo-French declaration (7 November 1918) was more exhaustive and specific, affecting both British and French spheres of interest (the term "Syria" still being considered to include Lebanon and Palestine):

> "The object aimed at by France and Great Britain in prosecuting in the East the War let loose by the ambition of Germany is the complete and definite emancipation of the [Arab] peoples and the establishment of national governments and administrations deriving their authority from the initiative and free choice of the indigenous populations.
>
> "In order to carry out these intentions, France and Great Britain are at one in encouraging and assisting the establishment of the indigenous governments and administrations in Syria and Mesopotamia now liberated by the Allies, and in the territories the liberation of which they are engaged in securing, and recognizing these as soon as they are actually established." 5/

The Committee on the Husain-McMahon correspondence

While these British assurances of independence to the Arabs were in unequivocal terms, the British position, since the end of the war, had been that Palestine had been excluded, an assertion contested by Palestinian and Arab leaders.

During the Husain-McMahon correspondence, the British made a determined effort to exclude certain areas from the territories to achieve independence, on the grounds that "the interests of our ally, France, are involved". Sherif Husain reluctantly agreed to suspend, but not surrender, Arab claims for independence to that area, stating that "the eminent minister should be sure that, at the first opportunity after this war is finished, we shall ask you (from what we avert our eyes today) for what we now leave to France in Beirut and its coasts".

The area in question had been described by McMahon as "portions of Syria lying to the west of the districts of Damascus, Homs, Hama and Aleppo". This would appear to correspond to the coastal areas of present-day Syria and the northern part of Lebanon (map at annex II), where French interests converge. Prima facie it does not appear to cover Palestine, a known, identifiable land with an ancient history, sacred to the three great monotheistic religions, and which, under the Ottomans, approximated to the independent sanjak of Jerusalem and the sanjaks of Acre and Balqa (map at annex III).

In 1939, shortly after the Husain-McMahon papers were made public, a committee consisting of both British and Arab representatives was set up to consider this specific issue. Both sides reiterated their respective interpretations of the

Husain-McMahon letters and were unable to reach an agreed view, but the British delegation conceded that the Arab

> "... contentions relating to the meaning of the phrase 'portions of Syria lying to the west of the districts of Damascus, Hama, Homs and Aleppo' have greater force than has appeared hitherto ... they agree that Palestine was included in the area claimed by the Sherif of Mecca in his letter of 14 July 1915, and that unless Palestine was excluded from that area later in the correspondence it must be regarded as having been included in the area which Great Britain was to recognize and support the independence of the Arabs. They maintain that on a proper construction of the correspondence Palestine was in fact excluded. But they agree that the language in which its exclusion was expressed was not so specific and unmistakable as it was thought to be at the time". 6/

Behind the diplomatic language there appears recognition that Palestine was not unequivocally excluded from the British pledges of independence. The report, referring to the Husain-McMahon papers as well as the British and Anglo-French declaration to the Arabs after the issue of the Balfour Declaration, concludes:

> "In the opinion of the Committee it is, however, evident from these statements that His Majesty's Government were not free to dispose of Palestine without regard to the wishes and interests of the inhabitants of Palestine, and that these statements must all be taken into account in any attempt to estimate the responsibilities which - upon any interpretation of the correspondence - His Majesty's Government have incurred towards those inhabitants as a result of the correspondence". 7/

On 17 April 1974, The Times of London published excerpts from a secret memorandum prepared by the Political Intelligence Department of the British Foreign Office for the use of the British delegation to the Paris peace conference. The reference to Palestine is as follows:

> "With regard to Palestine, His Majesty's Government are committed by Sir Henry McMahon's letter to the Sherif on October 24, 1915, to its inclusion in the boundaries of Arab independence ... but they have stated their policy regarding the Palestine Holy Place and Zionist colonization in their message to him of January 4, 1918."

An appendix to the memorandum notes:

> "The whole of Palestine ... lies within the limits which His Majesty's Government have pledged themselves to Sherif Husain that they will recognize and uphold the independence of the Arabs."

Professor Arnold J. Toynbee, who dealt with the Palestine question as a member of the British Foreign Office at the time of the Peace Conference, wrote in 1968:

> "... as I interpret the Hussein-McMahon correspondence, Palestine had not been excepted by the British Government from the area in which they had pledged themselves to King Hussein to recognize and support Arab independence. The Palestinian Arabs could therefore reasonably assume that Britain was pledged to prepare Palestine for becoming an independent Arab state." 8/

These acknowledgements that the British Government had not possessed the right "to dispose of Palestine" appeared decades after the commitments to the Arabs not only had been infringed by the Sykes-Picot agreement but, in disregard of the inherent rights and the wishes of the Palestinian people, the British Government had given Zionist leaders separate assurances regarding the establishment of a "national home for the Jewish people in Palestine", an undertaking that sowed the seeds of prolonged conflict in Palestine.

II. THE BALFOUR DECLARATION

These undertakings to the Zionist Organization were made known in a declaration issued by the British Foreign Secretary, Sir Arthur James Balfour, (whose name it has borne since):

"Foreign Office,
2 November 1917

"Dear Lord Rothschild,

I have much pleasure in conveying to you on behalf of His Majesty's Government the following declaration of sympathy with Jewish Zionist aspirations, which has been submitted to and approved by the Cabinet:

> 'His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by Jews in any other country.'

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours sincerely,
Arthur James Balfour".

The pivotal role of the Balfour Declaration in virtually every phase of the Palestinian issue cannot be exaggerated. The Declaration, which determined the direction of subsequent developments in Palestine, was incorporated in the Mandate. Its implementation brought Arab opposition and revolt. It caused unending difficulties for the Mandatory in the last stages pitting British, Jews and Arabs against each other. It ultimately led to partition and to the problem as it exists today. Any understanding of the Palestine issue, therefore, requires some examination of this Declaration which can be considered the root of the problem of Palestine.

The historical background of the "Jewish national home" concept

The Balfour Declaration was the direct outcome of a sustained effort by the Zionist Organization to establish a Jewish State in Palestine.

Moved by anti-Semitism and pogroms in Eastern Europe, Theodor Herzl, founder of the Zionist movement, wrote in Der Judenstaat (The Jewish State) in 1896:

> "The Idea which I have developed in this pamphlet is a very old one: it is the restoration of the Jewish State.
>
> ...

Let the sovereignty be granted us over a portion of the globe large enough to satisfy the rightful requirements of a nation, the rest we shall manage for ourselves". 9/

Herzl mentioned Palestine and Argentina but, the following year, the first Zionist Congress held in Basle declared that the goal of zionism was to "create for the Jewish people a home in Palestine secured by public law". Herzl wrote:

"Were I to sum up the Basle Congress in a word - which I shall guard against pronouncing publicly - it would be this: at Basle I founded the Jewish State ... If I said this out loud today, I would be answered by universal laughter. Perhaps in 5 years and certainly in 50 everyone will know it." 10/

Following rejection by the Ottoman authorities of his ideas, Herzl approached the British, German, Belgian and Italian Governments and such far-flung locations as Cyprus, East Africa and the Congo were considered, but did not materialize. The creation of a Jewish State in Palestine became the avowed aim of zionism, zealously pressed by Dr. Chaim Weizmann when he came to head the movement.

Since Palestine was an integral part of the Ottoman Empire, the Zionist Organization was cautious in declaring its aims, particularly after the young Turk revolution. The term "State" was avoided, "homeland" being used instead.

According to a Herzl associate, Max Nordau:

"I did my best to persuade the claimants of the Jewish State in Palestine that we might find a circumlocution that would express all we meant, but would say it in a way so as to avoid provoking the Turkish rulers of the coveted land. I suggested "Heimstätte" as a synonym for "State" ... This is the history of the much commented expression. It was equivocal, but we all understood what it meant. To us it signified "Judenstaat" then and it signifies the same now". 11/

In Herzl's words:

"No need to worry [about the phraseology]. The people will read it as 'Jewish State' anyhow". 12/

Leonard Stein, authoritative historian of zionism, writes:

"If their distrust of zionism was to be dispelled, there must be no more talk of a Charter or, even worse, of an international guarantee; still less must there be any room for the suspicion that the real purpose of the Zionist movement was to detach Palestine from Turkey and turn it into a Jewish State. However reluctant they might be to acknowledge that Herzl's ideas were outmoded, even the 'political' Zionists were forced to recognize that, without abandoning the essence of aspirations the movement must change its tactics". 13/

The words of another eminent Zionist historian, who participated in the drafting of the Declaration, conform to this tactic:

"It has been said and is still being obstinately repeated by anti-Zionists again and again, that zionism aims at the creation of an independent 'Jewish State'. But this is wholly fallacious. The 'Jewish State' was never part of the Zionist programme". 14/

But the direction was clear - the goal of zionism from the start was the establishment of a Jewish State in Palestine. The rights of the people of Palestine themselves received no attention in these plans.

What the political concept of a Jewish State in Palestine needed to give it reality was to transfer people to Palestine. The religious and spiritual solidarity of the Jews in the Diaspora with the Holy Land had survived over the centuries. Despite the anti-Semitism in Europe, only small groups had emigrated to Palestine to settle in Palestine for purely religious sentiments. They numbered perhaps 50,000 at the end of the nineteenth century, and personified, or symbolized, the Jewish link to Palestine which was, in essence, spiritual.

The Zionists drew on this ancient spiritual potential to build a political movement. A stirring slogan was spread abroad:

"A land without people for a people without land"

ignoring the fact that the Palestinians themselves, well over half a million at the turn of the century, lived in Palestine, that it was their home. The great Zionist humanist, Ahad Ha'am warned against the violation of the rights of the Palestinian people, and his words are well known in the literature of Palestine.

"... Ahad Ha'am warned that the settlers must under no circumstances arouse the wrath of the natives ... 'Yet what do our brethren do in Palestine? Just the very opposite! Serfs they were in the lands of the Diaspora and suddenly they find themselves in unrestricted freedom and this change has awakened in them an inclination to despotism. They treat the Arabs with hostility and cruelty, deprive them of their rights, offend them without cause and even boast of these deeds; and nobody among us opposes this despicable and dangerous inclination ...'

"... The same lack of understanding he found in the boycott of Arab labour proclaimed by Jewish labour ... 'Apart from the political danger, I can't put up with the idea that our brethren are morally capable of behaving in such a way to humans of another people, and unwittingly the thought comes to my mind: if it is so now, what will be our relation to the others if in truth we shall achieve at the end of times power in Eretz Yisrael? And if this be the "Messiah": I do not wish to see his coming.'

"Ahad Ha'am returned to the Arab problem ... in February 1914 ... '[the Zionists] wax angry towards those who remind them that there is still another people in Eretz Yisrael that has been living there and does not intend at all to leave its place. In a future when this illusion will have been torn from their hearts and they will look with open eyes upon the reality as it is, they will certainly understand how important this question is and how great our duty to work for its solution'." 15/

But Ahad Ha'am's plea went unheeded as political zionism set about to realize its goal of a Jewish State.

Zionist efforts directed at the British Government

Dr. Weizmann's approaches to various Governments led him to conclude that zionism's strongest hopes for a Jewish State in Palestine, tentatively destined for internationalization under the Sykes-Picot agreement, lay with Great Britain. Links with British leaders were established, notably with Lloyd George, a future Prime Minister, Arthur Balfour, a future Foreign Secretary, Herbert Samuel, a future High Commissioner of Palestine, and Mark Sykes. In 1915, Samuel in a memorandum entitled The Future of Palestine, proposed:

> "... the British annexation of Palestine [where] we might plant 3 or 4 million European Jews". 16/

Weizmann describes the links built up with British leaders, commenting in particular that:

> "One of our greatest finds was Sir Mark Sykes, Chief Secretary of the War Cabinet ... I cannot say enough regarding the services rendered us by Sykes. It was he who guided our work into more official channels. He belonged to the secretariat of the War Cabinet, which contained, among others, Leopold Amery, Ormsby-Gore and Ronald Storrs. If it had not been for the counsel of men like Sykes we, with our inexperience in delicate diplomatic negotiations, would undoubtedly have committed many dangerous blunders. The need for such counsel will become evident [in] the complications which already, at that time, surrounded the status of the Near East." 17/

Zionist leaders stressed the strategic advantages to Britain of a Jewish State in Palestine. In a letter written in 1914 to a sympathizer, Weizmann said:

> "... should Palestine fall within the British sphere of influence, and should Britain encourage a Jewish settlement there, as a British dependency, we could have in 20 to 30 years a million Jews out there - perhaps more; they would ... form a very effective guard for the Suez Canal." 18/

Another Weizmann letter of 1916 reads:

> "... The British Cabinet is not only sympathetic toward the Palestinian aspirations of the Jews, but would like to see these aspirations realized ...
>
> "England ... would have in the Jews the best possible friends, who would be the best national interpreters of ideas in the eastern countries and would serve as a bridge between the two civilizations. That again is not a material argument, but certainly it ought to carry great weight with any politician who likes to look 50 years ahead." 19/

Sykes was especially valuable in helping Weizmann and his colleagues, particularly Nahum Sokolow, in trying to persuade France to renounce its residual claims in the internationalized Jerusalem agreed upon in the Sykes-Picot accord. Original French ambitions had embraced all of Syria, including Palestine, to whose internationalization it had agreed only on strong British insistence. Sykes advised that "the Zionists should approach M. Picot and convince the French" 20/ to relinquish their claims and accompanied Sokolow to Paris, reporting progress of the mission to the Foreign Office. Sokolow told Picot that "the Jews had long had in

mind the sovereignty of the British Government" 21/ but Picot demurred, pointing to the interests of other Governments.

Stein recounts how the French objections were countered:

> "The plan of campaign now began to take shape. Weizmann was to join Sykes in Egypt and go on with him to Palestine when the time was ripe. Sokolow was to see what he could do to create a more favourable atmosphere in Paris, where the Government had been disinclined to take the Zionists seriously and the leading Jews for the most part openly hostile. Sokolow's mission was in the end to take him to Rome as well as Paris, but this was not originally planned or foreseen. An organized effort was to be made to secure the support of the American and Russian Zionists, and, if possible, of their Governments, for what was now to be put forward openly as the Zionist programme - the building up of a Jewish Commonwealth in Palestine under the aegis of Great Britain. Sykes, for his part, was getting ready to break it to Picot that Great Britain meant to insist on some form of British suzerainty in Palestine and that the French would have to reconcile themselves to the relinquishment of their claims". 22/

Eventually the French were persuaded to accept "the development of Jewish colonization in Palestine" 23/ and let Palestine pass into the British sphere of control.

The drafting of the Declaration

Weizmann writes:

> "The time had come, therefore, to take action, to press for a declaration of policy in regard to Palestine on the part of the British Government; and toward the end of January 1917, I submitted to Sir Mark Sykes the memorandum prepared by our committee, and had several preliminary conferences with him ...
>
> "The document was called: 'Outline of Programme for the Jewish Resettlement of Palestine in accordance with the Aspirations of the Zionist movement'. Its first point had to do with national recognition:
>
> "The Jewish population of Palestine (which in the programme shall be taken to mean both present and future Jewish population), shall be officially recognized by the Suzerain Government as the Jewish Nation, and shall enjoy in that country full civic, national and political rights. The Suzerain Government recognizes the desirability and necessity of a Jewish resettlement of Palestine." 24/

Stein describes the initiation of the consultations between the British Government and the Zionist Organization:

> "On 2 February 1917 a meeting of representative Zionists in London was attended by Sir Mark Sykes ... ostensibly present in his private capacity, but he occupied an influential position at the Foreign Office, and was playing an important part in shaping British policy in the Middle East. The conference of February 2nd was, in fact, the starting point of a prolonged exchange of views between the Zionist Organization and the British Government ... In July 1917, a formula for a proposed declaration was submitted to the

Government by the Zionist representatives. This formula recognized Palestine as 'the national home of the Jewish people' and provided for the establishment of a 'Jewish National Colonising Corporation for the resettlement and economic development of the country'. The Government replied with an alternative draft which formed the basis of ... the Balfour Declaration." 25/

Actually there were six drafts exchanged and discussed between the British Government and the Zionist movement, United States assent also being obtained before the British Foreign Secretary issued the final text of the Declaration in November 1917. The process has been described by more than one authority. 26/ There was no thought of consulting the Palestinians.

The final version of the Declaration received the most careful examination. The Prime Minister, David Lloyd George, is quoted as saying that the Declaration "... was prepared after much consideration, not merely of its policy but of its actual wording". 27/ Jeffries says:

> "... The first thing of all to be said of the Balfour Declaration is that it was a pronouncement which was weighed to the last pennyweight before it was issued. There was but sixty-seven words in it, and each of these ... was considered at length before it was passed into the text". 27/

This meticulous drafting process assumes significance precisely because the result of this lengthy and careful drafting was a statement remarkable for the ambiguities it carried. To quote Stein:

> "What were the Zionists being promised? The language of the Declaration was studiously vague, and neither on the British nor on the Zionist side was there any disposition, at that time, to probe deeply into its meaning - still less was there any agreed interpretation." 28/

Although the Declaration had fallen short of Zionist hopes, it was considered politic not to press further. Dr. Weizmann writes:

> "It is one of the 'ifs' of history whether we should have been intransigent, and stood by our guns. Should we then have obtained a better statement or would the Government have wearied of these internal Jewish divisions and dropped the whole matter? Our judgement was to accept". 29/

The "safeguards" in the Declaration

Yet the British Government had exercised caution where the original Zionist draft, sent to Balfour by Lord Rothschild, had proposed that "His Majesty's Government accept(s) the principle that Palestine should be reconstituted as the national home of the Jewish people", 30/ the official statement stated that the Government view(s) with favour the establishment of a national home for the Jewish people". There is a significant difference - it would be a home, not the home, and would be established not reconstituted, the latter term implying a legal right.

The original Zionist draft had proposed that "His Majesty's Government will use its best endeavours to secure the achievements of this object, and will discuss the necessary methods and means with the Zionist Organization". 30/ The official version stated that the Government "will use their best endeavours to facilitate the achievement of this object". The formal recognition of the Zionist

Organization as an authority, implicit in the Zionist draft, had been dropped. Weizmann was sensitive to these significant changes:

> "A comparison of the two texts - the one approved by the Foreign Office and the Prime Minister, and the one adopted on 4 October, after Montagu's attack - shows a painful recession from what the Government itself was prepared to offer. The first declares that "Palestine should be reconstituted as the national home of the Jewish people". The second speaks of "the establishment in Palestine of a national home for the Jewish race". The first adds only that the "Government will use its best endeavours to secure the achievement of this object and will discuss the necessary methods with the Zionist Organization"; the second introduced the subject of the "civil and religious rights of the existing non-Jewish communities" in such a fashion as to impute possible oppressive intentions to the Jews, and can be interpreted to mean such limitations on our work as completely to cripple it". 31/

One of Weizmann's concerns was over a "safeguard" clause concerning the interests of the Palestinian people. Its wording is remarkable, particularly when the careful drafting of the Declaration's language is recalled. This clause does not mention the Palestinian or Arab people, whether Christian or Muslim, who compromised over 90 per cent of the population of Palestine, and who owned about 97 per cent of its land. Instead, the Declaration refers to them as the "existing non-Jewish communities in Palestine", a formulation which has been likened to calling "the multitude the non-few" or the British people "the non-Continental communities in Great Britain". 32/

Further, at a time when the principle of self-determination was being accorded recognition it was being denied to the people of Palestine. The Declaration's language seeks to prevent actions "which may prejudice the civil and religious rights of the existing non-Jewish communities in Palestine", but is singularly silent on their more fundamental political rights.

This is of particular interest because the concept of political rights is present in the very next phrase, providing "... that nothing shall be done which may prejudice ... the rights and political status enjoyed by Jews in any other country". This second "safeguard" had not been proposed by the Zionist Organization, and is believed to have been the outcome of Sir Edwin Montagu's apprehensions over the repercussions of the Declaration on Jews who chose to remain in their own countries.

The meaning of the Balfour Declaration

An eminent authority in international law, Professor W. T. Mallison, writes:

> "There is no doubt concerning the centrality of the Balfour Declaration in the Zionist-Israel juridical claims. The issue of its accurate juridical interpretation is therefore, one of very substantial importance. In view of these considerations, it is necessary to use the most reliable evidence, the primary public law source materials, for interpretational purposes. Among these sources, the negotiating history of the Declaration including the various negotiating positions, as well as the final official text, are essential". 33/

He then summarizes the negotiating objectives of both the British Government and the Zionist Organization.

> "The British Government had two principal political objectives during the period of the negotiations. The first was to win the war, and the second was to maximize the British power position through the ensuing peace settlement ...
>
> "The consistent Zionist objectives before and during the negotiations were to obtain public law authority for their territorial ambitions ...
>
> "The Zionists entered the negotiations with the expectations of obtaining their full territorial demands. These expectations, however, were necessarily limited by two objective factors. The first was that the number of Jews in Palestine during the World War was only a small fraction of the entire population of the country. The second was that the Zionists could not expect anything from the British Government which did not accord with its actual or supposed imperial interests". 34/

Another authority states that the fact that the Declaration was:

> "A definite contract between the British Government and Jewry represented by the Zionists is beyond question. In spirit it is a pledge that in return for service to be rendered by Jewry, the British Government would 'use their best endeavours' to secure the execution of a certain definite policy in Palestine". 35/

The reactions to the Declaration

The Balfour Declaration became a highly controversial document. It disturbed those Jewish circles who were not in favour of the Zionist aim of the creation of a Jewish State (the "internal divisions" referred to by Weizmann). Many Jewish communities of non-Zionist convictions regarded themselves as nationals of their countries, and the concept of a "Jewish national home" created strong conflicts of loyalties, notwithstanding the clause in the Declaration assuring retention of their status in their respective countries.

Foremost among Jewish critics was Sir Edwin Montagu, Secretary of State for India and the only Jewish member of the British Cabinet. His dissent from the political nature of Zionist aims stemmed from conviction that Judaism was a universal faith, distinct from nationality, and that in the era of the modern nation-State the Jewish people did not constitute a nation. He questioned the credentials of the Zionist Organization to speak for all Jews. In secret memoranda (later made public) he wrote:

> "Zionism has always seemed to me to be a mischievous political creed, untenable by any patriotic citizen of the United Kingdom ... I have always understood that those who indulged in this creed were largely animated by the restrictions upon and refusal of liberty to Jews in Russia. But at the very time when these Jews have been acknowledged as Jewish Russians and given all liberties, it seems to be inconceivable that zionism should be officially recognized by the British Government, and that Mr. Balfour should be authorized to say that Palestine was to be reconstituted as the 'national home of the Jewish people'. I do not know what this involves, but I assume that it means that Mohammedans and Christians are to make way for the Jews, and that

the Jews should be put in all positions of preference and should be peculiarly associated with Palestine in the same way that England is with the English or France with the French, that Turks and other Mohammedans in Palestine will be regarded as foreigners, just in the same way as Jews will hereafter be treated as foreigners in every country but Palestine ... When the Jews are told that Palestine is their national home, every country will immediately desire to get rid of its Jewish citizens, and you will find a population in Palestine driving out its present inhabitants, taking all the best in the country ...

"I deny that Palestine is today associated with the Jews or properly to be regarded as a fit place for them to live in. The Ten Commandments were delivered to the Jews on Sinai. It is quite true that Palestine plays a large part in Jewish history, but so it does in modern Mohammedan history, and, after the time of the Jews, surely it plays a larger part than any other country in Christian history ...

"... When the Jew has a national home, surely it follows that the impetus to deprive us of the rights of British citizenship must be enormously increased. Palestine will become the world's ghetto. Why should the Russian give the Jew equal rights? His national home is Palestine". 36/

This was very much a minority view in the British Government whose policy was summed up by Prime Minister Lloyd George:

"There can be no doubt as to what the [Imperial War] Cabinet then had in their minds. It was not their idea that a Jewish State should be set up immediately by the Peace Treaty without reference to the wishes of the majority of the inhabitants. On the other hand, it was contemplated that, when the time arrived for according representative institutions to Palestine, if the Jews had meanwhile responded to the opportunity afforded them and had become a definite majority of the inhabitants, then Palestine would thus become a Jewish Commonwealth. The notion that Jewish immigration would have to be artificially restricted in order that the Jews should be a permanent minority never entered the head of anyone engaged in framing the policy. That would have been regarded as unjust and as a fraud on the people to whom we were appealing". 37/

The implication is clear - the achievement of a Jewish majority would assure the establishment of a Jewish State. The fundamental question of the rights of the Palestinians themselves did not enter into the picture.

The implications of the Declaration

Three features of the Balfour Declaration draw attention.

One is that evidently it was not in accordance with the spirit of the pledges of independence given to the Arabs both before and after it was issued. The second is that the disposition of Palestine was determined in close consultation with a political organization whose declared aim was to settle non-Palestinians in Palestine. Not only did this ignore the interests of the native Palestinians, but it was a deliberate violation of their rights (see sect. IV below). The third is that through the Declaration the British Government made commitments to the Zionist Organization regarding the land of the Palestinians at a moment when it was still formally part of the Ottoman Empire.

One authority writes:

> "The most significant and incontrovertible fact is, however, that by itself the Declaration was legally impotent. For Great Britain had no sovereign rights over Palestine, it had no proprietary interest, it had no authority to dispose of the land. The Declaration was merely a statement of British intentions and no more". 38/

Other authorities in international law have also held the Declaration to be legally invalid 39/ but this was not an issue in 1917, when the Balfour Declaration became official British policy for the future of Palestine. The ambiguities and contradictions within the Declaration contributed heavily towards the conflict of goals and expectations that arose between the Palestinian Arabs and the non-Palestinian Jews. The Zionist Organization was to use the assurances for "a national home for the Jewish people" to press its plans for the colonization of Palestine on the basis of the Balfour Declaration and its implementation through the League of Nations Mandates System. The Palestinian people were to resist these efforts, since their fundamental political right to self-determination had been denied, and their land was to become the object of colonization from abroad during the period it was under a League of Nations Mandate.

III. THE LEAGUE OF NATIONS MANDATES

Arab nationalism and Great Power plans

Nationalist aspirations in the Arab world, including Palestine, were ascendant when the war ended. One of the foremost authorities on Middle Eastern affairs, Professor J. C. Hurewitz, writes:

> "The demise of the Ottoman Empire, in fact, 'resolved' the Eastern question. Yet while Britain and France inherited the political controls they significantly did not annex Near and Middle East territory outright. Mandates and preferential alliances were no more than provisional arrangements, and the presence of the Western Powers in various guises stimulated the growth of local nationalism dedicated to the early realization of full sovereignty." 40/

A major question facing the victorious European Powers was the political status of territories and peoples formerly under Ottoman rule. Of President Wilson's "Fourteen Points" outlining the framework of the peace agreements to be negotiated, the one dealing with self-determination was directly applicable to Palestine:

> "The Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development ..."

The Allied Powers, however, decided at the Paris Peace Conference of 1919 to bring these territories under the mandates system introduced by the Covenant of the League of Nations, signed on 28 June 1919, as an integral part of the Treaty of Versailles which concluded peace with Germany.

The Covenant of the League of Nations

The League of Nations was a body sui generis, established by an unprecedented agreement by the victorious States of the post-war world to establish their concept of order in international relations. The place of the colonies ruled by the victorious States and the territories detached from the defeated States was a special problem in this order.

Colonialism then was still part of the international system, although President Wilson's programme, a liberal landmark in the development of anti-colonialism, acknowledged that the concept of the right of self-determination applied equally to the non-Western part of humanity:

> "A free, open-minded and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the Government whose title is to be determined."

The League of Nations, designed to respond to the prevailing order, adopted the mandates concept, an innovation in the international system, as a way to

accommodate the demands of the colonial age with the moral and political need to acknowledge the rights of the colonized.

Article 22 (full text at annex IV) of the Covenant established the Mandates System, founded on the concept of the development of such territories under the "tutelage ... of advanced nations" formed "a sacred trust of civilization". The degree of tutelage was to depend on the extent of political maturity of the territory concerned. The most developed would be classified as 'A' Mandates, the less developed as 'B', and the least developed as 'C'.

The character of the Arab peoples, themselves inheritors of an ancient and advanced civilization, could not but be recognized, and the clauses directly applied to Arab lands as class 'A' Mandates read:

> "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory."

Palestine was in no manner excluded from these provisions.

The allocation of Arab territories

Article 22 laid down no rules for the selection of the Mandatory Powers or for the distribution of mandates between them. Turkey and Germany were simply made to renounce their claims to sovereignty over the territories whose distribution was to be decided by the Allied Powers. Germany's divestiture of titles was codified in the Treaty of Versailles (article 119). In the case of Turkey, such renunciation was provided for in the Treaty of Sevres of 1920 (article 132) but, since that treaty never came into force, the renunciation of Turkish claims over non-Turkish territories was formalized in the Treaty of Lausanne. The treaties of Versailles and of Lausanne contained explicit provisions empowering the Allied Powers to apportion the "freed" territories as their mandates.

The former German territories were allotted by a decision of the Supreme Council of the Allied Powers on 7 May 1919, shortly after the signing of the Treaty of Versailles. The former Turkish territories, however, were divided at the Conference of San Remo on 25 April 1920, while a legal state of war with Turkey still existed, three years before the signing of the Treaty of Lausanne. The administration of Syria and Lebanon was awarded to France, and that of Palestine and Transjordan and of Mesopotamia (Iraq) to Great Britain.

The working of the Mandates System

All the mandates over Arab countries, including Palestine, were treated as class 'A' Mandates, applicable to territories whose independence had been provisionally recognized in the Covenant of the League of Nations. The various mandate instruments were drafted by the Mandatory Powers concerned but subject to the approval of the League of Nations.

The mandate for Iraq, while in the process of being drafted, was amended to provide for the signature of a treaty between Britain and Iraq, which was concluded

in 1922. This was supplemented by further agreements, all approved by the League as meeting with the requirements of article 22 of the Covenant. Iraq obtained formal independence on 3 October 1932.

The Mandate for Syria and Lebanon did not provide for any special treatment as in the case of Iraq. Both territories were governed under the full control of France until the Mandate was terminated. Lebanon achieved full independence on 22 November 1943 and Syria on 1 January 1944.

Palestine and Transjordan (as it was then called) were included in the same Mandate but treated as distinct territories. Article 25 of the Palestine Mandate empowered Great Britain to withhold, with the League's approval, the implementation of any provision of the Mandate in Transjordan. On the request of the British Government the Council of the League, on 16 September 1922, passed a resolution effectively approving a separate administration for Transjordan. This separate administration continued until the territory attained independence as the Kingdom of Jordan on 22 March 1946.

Only in the case of Palestine did the Mandate, with its inherent contradictions, lead not to the independence provisionally recognized in the Covenant, but towards conflict that was to continue six decades later.

IV. PALESTINE MANDATED

The contradictions inherent in the Mandate for Palestine arose from the incorporation in it of the Balfour Declaration. The importance of gaining international support for a Jewish State was recognized from the outset for several reasons:

(a) To consolidate divergent Jewish opinion behind Zionist policies;

(b) To draw the support of European Powers to harmonize with British policy;

(c) To obtain some form of international approval for the enterprise.

Weizmann is quoting as stating that the effort of zionism must be "... to make the Jewish question an international one. It means going to the nations and saying, 'we need your help to achieve our aim'". 41/

The Zionist Commission

The first move was the dispatch to Palestine in April 1918 of a Zionist Commission consisting of Dr. Weizmann and Zionist representatives from France and Italy, accompanied by British officials. The telegram to the British High Commission in Egypt outlined its task:

> "... object of Commission is to carry out ... any steps required to give effect to government declaration in favour of the establishment in Palestine of a national home for the Jewish people ...
>
> "Among the most important functions of the Commission will be the establishment of good relations with the Arabs and other non-Jewish communities in Palestine, and to establish the Commission as the link between the military authorities and the Jewish population and Jewish interests in Palestine.
>
> "It is most important that everything should be done to obtain authority from the Commission in the eyes of the Jewish world, and at the same time allay Arab suspicions regarding the true aims of zionism. ..." 42/

Although formally still part of the Ottoman Empire, Palestine was under British military occupation since December 1917. Palestinian apprehension over the intents of the Balfour Declaration had been reported to London by the military authorities, and when the Zionist Commission arrived in Jerusalem, Weizmann wrote the Foreign Office:

> "We were prepared to find a certain amount of hostility on the part of the Arabs and Syrians, based largely on misconception of our real aims, and we have always realized that one of our principal duties would be to dispel misconceptions and to endeavour to arrive at an amicable understanding with the non-Jewish elements of the population on the basis of the declared policy of His Majesty's Government. But we find among the Arabs and Syrians, or certain sections of them, a state of mind which seems to us to make useful negotiations impossible at the present moment, and so far as we are aware - though here our information may be incomplete - no official steps have been

taken to bring home to the Arabs and Syrians the fact that His Majesty's Government has expressed a definite policy with regard to the future of the Jews in Palestine". 43/

The Military Governor, Colonel (later Sir) Ronald Storrs, commented:

"I cannot agree that, as Dr. Weizmann would seem to suggest, it is the business of the military authorities to 'bring home to the Arabs and Syrians the fact that His Majesty's Government has expressed a definite policy with regard to the future of the Jews in Palestine'. This has already been done by Mr. Balfour in London, and by the press throughout the world. What is wanted is that the Zionists themselves should bring home to the Arabs and Syrians an exposition at once as accurate and conciliatory as possible of their real aims and policy in the country ...

"Speaking myself as a convinced Zionist, I cannot help thinking that the Commission are lacking in a sense of the dramatic actuality. Palestine, up to now a Moslem country, has fallen into the hands of a Christian Power which on the eve of its conquest announced that a considerable portion of its land is to be handed over for colonization purposes to a nowhere very popular people. The dispatch of a Commission of these people is subsequently announced ... From the announcement in the British press until this moment there has been no sign of a hostile demonstration public or private against a project which if we may imagine England for Palestine can hardly open for the inhabitants the beatific vision of a new heaven and a new earth. The Commission was warned in Cairo of the numerous and grave misconceptions with which their enterprise was regarded and strongly advised to make a public pronouncement to put an end to those misconceptions. No such pronouncement has yet been made; ..." 43/

The Commission completed its stay in Palestine, and the Zionist Organization prepared itself for the Paris Peace Conference of 1919. Proposals were submitted to the Foreign Office for consideration at the Conference. Lord Curzon (then Foreign Secretary and formerly Viceroy of India and Lord President of the Council) commented to Balfour on these proposals:

"... As for Weizmann and Palestine, I entertain no doubt that he is out for a Jewish Government, if not at the moment then in the near future ...

"What all this can mean except Government I do not see. Indeed a Commonwealth as defined in my dictionary is a 'body politic' a 'State' an 'independent community' a 'republic'.

"I feel tolerably sure therefor that while Weizmann may say one thing to you, or while you may mean one thing by a national home, he is out for something quite different. He contemplates a Jewish State, a Jewish nation, a subordinate population of Arabs, etc. ruled by Jews; the Jews in possession of the fat of the land, and directing the Administration.

"He is trying to effect this behind the screen and under the shelter of British trusteeship.

"I do not envy those who wield the latter, when they realize the pressure to which they are certain to be exposed. ..." 44/

The Paris Peace Conference

The delegation of the Hijaz (now Saudi Arabia), led by Sherif Husain's son, Emir Feisal, was the only Arab delegation at the Conference, and presented the Arab case for independence, although their credentials were not recognized by all Arab leaders. Feisal relied heavily for guidance on the British Government, which had sponsored his participation in the Conference. His position is described by George Antonius:

> "... the pressure to which he was being subjected in London was telling on him. He felt keenly the insufficiency of his equipment, his ignorance of English, his unfamiliarity with the methods of European diplomacy ... It added to his sense of weakness and isolation that he knew the French to be hostile to his person and to his mission: apart from the scant courtesy with which he had been treated on his passage through France, he had had a multitude of signs to show him that his own distrust of the French was unfeignedly reciprocated. He allowed himself to be persuaded that his chances of neutralizing the hostility of the French would be greater if he could see his way to meeting Great Britain's wishes to the fullest possible extent." 45/

Feisal apparently did not fully appreciate the implications of Zionist aims. He could play no significant role in the Conference and, influenced by British officials, he presented a brief memorandum dated 1 January 1919 to the Paris Peace Conference, outlining the case for the independence of Arab countries. The paragraph relating to Palestine reads, in stilted and peculiar language:

> "In Palestine, the enormous majority of the people are Arabs. The Jews are very close to the Arabs in blood, and there is no conflict of character between the two races. In principles we are absolutely at one. Nevertheless, the Arabs cannot risk assuming the responsibility of holding level the scales in the clash of races and religions that have, in this one province, so often involved the world in difficulties. They would wish for the effective super-position of a great trustee, so long as a representative local administration commended itself by actively promoting the material prosperity of the country." 46/

It is evident that although prompted to say that "there is no conflict of character between the two races ... In principles we are absolutely at one", Feisal in no manner consented to the establishment of a Jewish State in Palestine, but only implied acceptance of a mandate.

The ambiguity in the wording of Feisal's proposals might have stemmed not only from his unfamiliarity with international diplomacy, but also from the need to retain flexibility for the political ambitions of Sherif Husain and his sons to extend their suzerainty over as wide an area as possible. Thus Feisal's claim to being an interlocuteur valable has been questioned by Palestinian leaders. The significant point is the absence of representation of the Palestinian principals in decision on their fate, a characteristic also of subsequent rulings on Palestine.

Both Weizmann and Sokolow spoke before the Conference, where the Zionist Organization presented a detailed memorandum (drafted by a Committee including Samuel and Sykes), whose introductory portions, suggesting the alienation of Palestinian sovereignty, read:

"The Zionist Organization respectfully submits the following draft resolutions for the consideration of the Peace Conference:

1. The High Contracting Parties recognize the historic title of the Jewish people to Palestine and the right of the Jews to reconstitute in Palestine their national home ...

3. The sovereign possession of Palestine shall be vested in the League of Nations and the Government entrusted to Great Britain as Mandatory of the League ...

5. The Mandate shall be subject also to the following special conditions:

(1) Palestine shall be placed under such political, administrative and economic conditions as will secure the establishment there of the Jewish national home and ultimately render possible the creation of an autonomous Commonwealth ..." 47/

However, during meetings on the mandates question of the Allied Supreme Council, President Wilson declared that "one of the fundamental principles to which the United States of America adhered was the consent of the governed" and proposed the dispatch of an inter-allied commission "... to elucidate the state of opinion and the soil to be worked on by any mandatory". This proposal materialized in the "King-Crane" Commission, and it was agreed that its jurisdiction would include Palestine. 48/

The King-Crane Commission

For their own reasons both Britain and France did not nominate members to the Commission. According to Anthony Nutting, "Britain and France backed out rather than find themselves confronted by recommendations from their own appointed delegates which might conflict with their policies". 49/ President Wilson appointed two Americans, Henry King and Charles Crane.

Soon after the Commission arrived in Damascus, Arab nationalists, meeting as the "General Syrian Congress", including representatives from Lebanon and Palestine, adopted a resolution to be presented to the Commission. The resolution asked for full independence for Syria (including Lebanon and Palestine), rejecting any form of foreign influence or control. The resolution included the first formal declaration of Arab opposition to the plans being made for Palestine:

"We oppose the pretensions of the Zionists to create a Jewish Commonwealth in the southern part of Syria, known as Palestine, and oppose Zionist migration to any part of our country, for we do not acknowledge their title but consider them a grave peril to our people from the national, economical, and political points of view. Our Jewish compatriots shall enjoy our common rights and assume the common responsibilities." 50/

The Commission's report recommended that, in view of the opposition to French influence, consideration be given to an American mandate over Syria. The portions dealing with Palestine recommended:

"... serious modification of the extreme Zionist programme for Palestine of unlimited immigration of Jews, looking finally to making Palestine distinctly a Jewish State ..."

Referring to President Wilson's preparation of the principle of self-determination, the Commission stated:

"If that principle is to rule, and so the wishes of Palestine's population are to be decisive as to what is to be done with Palestine, then it is to be remembered that the non-Jewish population of Palestine - nearly nine-tenths of the whole - are emphatically against the entire Zionist programme. The tables show that there was no one thing upon which the population of Palestine were more agreed than upon this. To subject a people so minded to unlimited Jewish immigration, and to steady financial and social pressure to surrender the land, would be a gross violation of the principle just quoted, and of the peoples' rights though it kept within the forms of law ...

"The Peace Conference should not shut its eyes to the fact that the anti-Zionist feeling in Palestine and Syria is intense and not lightly to be flouted. No British Officer consulted by the Commissioners believed that the Zionist programme could be carried out except by force of arms. The officers generally thought that a force of not less than 50,000 soldiers would be required even to initiate the programme. That of itself is evidence of a strong sense of the injustice of the Zionist programme, on the part of the non-Jewish populations of Palestine and Syria. Decisions, requiring armies to carry out, are sometimes necessary, but they are surely not gratuitously to be taken in the interests of a serious injustice. For the initial claim, often submitted by Zionist representatives, that they have a "right" to Palestine, based on an occupation of two thousand years ago, can hardly be seriously considered." 51/

Allied policy on Palestine

The Commission's recommendations received little attention and in any case were to become moot with the United States' decision to stay out of the League. Meanwhile, the actual policy for Palestine was being given final shape. Balfour told Justice Brandeis, leader of the Zionist movement in the United States:

"The situation is further complicated by an agreement made early in November (1918) by the British and French, and brought to the President's attention, telling the people of the East that their wishes would be consulted in the disposition of their future ... Palestine should be excluded from the terms of reference because the Powers had committed themselves to the Zionist programme which inevitably excluded numerical self-determination. Palestine presented a unique situation. We are dealing not with the wishes of an existing community but are consciously seeking to reconstitute a new community and definitely building for a numerical majority in the future ..." 52/

In a memorandum to Lord Curzon on 11 August 1919, Balfour candidly wrote:

"The contradiction between the letters of the Covenant and the policy of the Allies is even more flagrant in the case of the 'independent nation' of Palestine than in that of the 'independent nation' of Syria. For in Palestine

we do not propose even to go through the form of consulting the wishes of the present inhabitants of the country, though the American Commission has been going through the form of asking what they are.

"The four Great Powers are committed to zionism. And zionism, be it right or wrong, good or bad, is rooted in age-long traditions, in present needs, in future hopes, of far profounder import than the desires and prejudices of the 700,000 Arabs who now inhabit that ancient land.

"In my opinion that is right. What I have never been able to understand is how it can be harmonized with the (Anglo-French) declaration of November 1918, the Covenant, or the instructions to the Commission of Enquiry.

"I do not think that zionism will hurt the Arabs, but they will never say they want it. Whatever be the future of Palestine, it is not now an 'independent nation', nor is it yet on the way to become one. Whatever deference should be paid to the view of those living there, the Powers in their selection of a mandatory do not propose, as I understand the matter, to consult them. In short, so far as Palestine is concerned, the Powers have made no statement of fact which is not admittedly wrong, and no declaration of policy which, at least in the letter, they have not always intended to violate ..." 53/

The final disposition of Palestine was decided by the Allied Supreme Council at the San Remo Conference on 25 April 1920. The process has been described as follows:

"The allocation of the Mandate was for several reasons a slow process. In the first place, it hung upon the Anglo-French agreement as to the validity of the Sykes-Picot arrangements for the whole of the ex-Turkish territories, and this was held up by discord over Syria and Mosul, involving discussions très vives de ton between Clemenceau and Mr. Lloyd George. As a result of the compromise, Palestine, which had under the Sykes-Picot plan been destined for international administration, in the end passed by mutual consent into British tutelage." 54/

The decision was taken without any heed to the requirement of article 22 of the Covenant that "the wishes of these communities must be a principal consideration in the selection of a Mandatory".

The decision of the Allied Powers to support Zionist aims drew protest from Palestinians. Citizens of Nazareth reminded the British Administrator in Jerusalem:

"In view of the declaration of the decision of the Peace Conference regarding the establishment of a Jewish national home in Palestine, we hereby beg to declare that we are the owners of this country and the land is our national home ..." 55/

The drafting of the Palestine Mandate

Undeterred, the Zionist Organization pressed to obtain international support for its aims by securing approval from the League of Nations. Weizmann writes that his advisers:

"... fought the battle of the Mandate for many months. Draft after draft was proposed, discussed and rejected, and I sometimes wondered if we should ever reach a final text. The most serious difficulty arose in connection with a paragraph in the Preamble - the phrase which now reads: 'Recognizing the historic rights of the Jews to Palestine'. But Curzon would have none of it, remarking dryly: 'If you word it like that, I can see Weizmann coming to me every other day and saying he has a right to do this, that, or the other in Palestine! I won't have it!' As a compromise, Balfour suggested 'historial connection', and 'historical connection' it was." 56/

The wording of the Mandate was the object of strong opinions within the British Government, with Curzon strongly resisting formulations that would imply recognition of any legal rights for the Zionist movement in Palestine. Excerpts from official memoranda are informative:

On a draft to the effect that the British Government would be:

"responsible for placing Palestine under such political, administrative and economic conditions as will secure the establishment of a Jewish national home and the development of a self-governing Commonwealth ..."

Curzon commented:

"... development of a self-governing Commonwealth'. Surely most dangerous. It is an euphemism for a Jewish State, the very thing they accepted and that we disallow ...

"The Zionists are after a Jewish State with the Arabs as hewers of wood and drawers of water.

"So are many British sympathisers with the Zionists.

"Whether you use the word Commonwealth or State that is what it will be taken to mean.

"That is not my view. I want the Arabs to have a chance and I don't want a Hebrew State.

"I have no idea how far the case has been given away to the Zionists. If not I would prefer 'self-governing institutions'. I have never been consulted as to this Mandate at an earlier stage, nor do I know from what negotiations it springs or on what undertakings it is based ... I think the entire concept wrong.

"Here is a country with 580,000 Arabs and 30,000 or is it 60,000 Jews (by no means all Zionists). Acting upon the noble principles of self-determination and ending with a splendid appeal to the League of Nations, we then proceed to draw up a document which ... is an avowed constitution for a Jewish State. Even the poor Arabs are only allowed to look through the keyhole as a non-Jewish community." 57/

The Zionist Organization was being consulted in the drafting of the Mandate although Curzon disapproved:

> "I told Dr. Weizmann that I could not admit the phrase (historical connection) in the preamble ... It is certain to be made the basis of all sorts of claims in the future. I do not myself recognize that the connection of the Jews with Palestine, which terminated 1,200 years ago, gives them any claim whatsoever ... I would omit the phrase. I greatly dislike giving the draft to the Zionists, but in view of the indiscretions already committed, I suppose that this is inevitable ..." 58/

Balfour, by then Lord President of the Council, continued to help Weizmann. In a memorandum on the Mandate for the British Cabinet, Curzon wrote:

> "... this Mandate ... has passed through several revisions. When it was first shown to the French Government it at once excited their vehement criticism on the ground of its almost exclusively Zionist complexion and of the manner in which the interests and rights of the Arab majority ... were ignored. The Italian Government expressed similar apprehensions ... The Mandate, therefore, was largely rewritten, and finally received their assent ...
>
> "In the course of these discussions strong objection was taken to a statement which had been inserted in the Preamble of the first draft to the following effect:
>
> 'Recognizing the historical connection of the Jewish people with Palestine and the claim which this gives them to reconstitute Palestine as their national home.'
>
> "It was pointed out (1) that, while the Powers had unquestionably recognized the historical connection of the Jews with Palestine by their formal acceptance of the Balfour Declaration and their textual incorporation of it in the Turkish Peace Treaty drafted at San Remo, this was far from constituting anything in the nature of a legal claim, and that the use of such words might be, and was, indeed, certain to be used as the basis of all sorts of political claims by the Zionists for the control of Palestinian administration in the future, and (2) that, while Mr. Balfour's Declaration had provided for the establishment of a Jewish national home in Palestine, this was not the same thing as the reconstitution of Palestine as a Jewish national home - an extension of the phrase for which there was no justification, and which was certain to be employed in the future as the basis for claims of the character to which I have referred.
>
> "On the other hand, the Zionists pleaded for the insertion of some such phrase in the preamble, on the ground that it would make all the difference to the money that they aspired to raise in foreign countries for the development of Palestine.
>
> "Mr. Balfour, who interested himself keenly in their case, admitted, however, the force of the above contentions and, on the eve of leaving for Geneva, suggested an alternative form of words which I am prepared to recommend." 59/

When the question of the British Mandate over Palestine was discussed in Parliament, it became clear that opinion in the House of Lords was strongly opposed to the Balfour policy, as illustrated by the words of Lord Sydenham in reply to Lord Balfour:

> "... the harm done by dumping down an alien population upon an Arab country - Arab all around in the hinterland - may never be remedied ... what we have done is, by concessions, not to the Jewish people but to a Zionist extreme section, to start a running sore in the East, and no one can tell how far that sore will extend." 60/

The House of Lords voted to repeal the Balfour Declaration, but a similar motion was defeated in the House of Commons and the British Government formally accepted the Mandate.

The Zionist Organization however, succeeded in having its formulation concerning "historical connection" and "reconstitution" of the "national home" included in the final text of the Mandate (annex V) which was approved by the League of Nations on 24 July 1922, and came into formal effect in September 1923 when the Treaty of Lausanne with Turkey came into force. It thus gave international sanction - which then meant the sanction of the victorious Allied Powers - to the Balfour Declaration, and determined the direction of developments in Palestine. The important clauses of the Mandate read:

> "Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on 2 November, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favour of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country; and
>
> "Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country;
>
> "Article 1: The Mandatory shall have full powers of legislation and of administration, save as they may be limited by the terms of this Mandate.
>
> "Article 2: The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.
>
> "Article 4: An appropriate Jewish agency shall be recognized as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

"The Zionist Organization, so long as its organization and constitution are in the opinion of the Mandatory appropriate, shall be recognized as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

"Article 6: The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes."

The Mandate provided for no body to serve the interests of the Palestinian people, similar to the Jewish Agency given official status. Nor were the Palestinians ever consulted in the choice of the mandatory, as required by article 22 of the Covenant. The only move towards consultation had been the American King-Crane Commission, whose views were ignored. The United States, however, had become associated with the Balfour Declaration's policy through a joint Congressional resolution incorporating the Declaration's language. 61/ Three years later the Anglo-American Convention of 1925 formalized United States' consent to the implementation of a Mandate 61/ embedded with conflicting obligations, and in which the inherent political rights of the Palestinian people had been overridden.

The borders of Palestine

Zionist ambitions for the national home had sought considerably more territory, extending into Lebanon, Syria, Transjordan, and Egypt, than was actually assigned to the Mandatory Power. The Zionist Organization's initial proposal asked that the Jewish national home be established within the following borders:

"... In the north, the northern and southern banks of the Litany River, as far north as latitude 33° 45'. Thence in a south-easterly direction to a point just south of the Damascus territory and close and west of the Hedjaz Railway.

"In the east, a line close to and west of the Hedjaz Railway.

"In the south, a line from a point in the neighbourhood of Akaba to El Arish.

"In the west, the Mediterranean Sea.

"The details of the delimitation should be decided by a Boundary Commission, one of the members of which should be a representative of the Jewish Council for Palestine hereinafter mentioned.

"There should be a right of free access to and from the Red Sea, through Akaba, by arrangement with the Arab Government ..."

The map covered by these proposed frontiers is shown in the map at annex VI.

These Zionist claims were not admitted, and the borders of Palestine enclosed a far more restricted area (also shown in the map) within which Great Britain exercised its mandate.

The question of the validity of the Mandate

It is clear that by failing to consult the Palestinian people in the decision on the future of their country, the victorious Powers ignored not only the principle of self-determination that they themselves had endorsed, but also the provisions of Article 22 of the League's Covenant.

Even during the mandate, the Palestinians protested against this denial of their fundamental rights. The report of the Royal Commission (of 1937) records these protests:

> "... though the Mandate was ostensibly based on Article 22 of the Covenant of the League of Nations, its positive injunctions were not directed to the 'well-being and development' of the existing Arab population but to the promotion of Jewish interests. Complete power over the legislation as well as administration was delegated to the Mandatory, who undertook to place the country under such political, administrative and economic conditions as would secure the establishment of the Jewish national home ...
>
> "... One member of the Arab Higher Committee dealt more closely with the legal argument. He remarked that the terms of the Mandate are inconsistent with the provisions of Article 22 of the Covenant of the League of Nations. Paragraph 4 of that Article recognizes the existence of two juristic persons - one the community which should govern independently and the other the foreigner who is to assist and advise until the former is able to stand alone. But in Palestine there is one person who governs and who assists himself. Your Majesty is the Mandatory and Your Majesty's Government and their nominees are the Government of Palestine and, while the Preamble speaks of a Mandate, article 1 denies the existence of a Mandate in the proper sense by conferring upon what is called 'the Mandatory' full powers of legislation and administration. The community which is to be provisionally recognized as independent has no existence ..." 62/

From among the several authorities of international law who have questioned the validity of the Mandate, the views of Professor Henry Cattan may be quoted:

> "The Palestine Mandate was invalid on three grounds set out hereinafter.
>
> "1. The first ground of invalidity of the Mandate is that by endorsing the Balfour Declaration and accepting the concept of the establishment of a Jewish national home in Palestine it violated the sovereignty of the people of Palestine and their natural rights of independence and self-determination. Palestine was the national home of the Palestinians from time immemorial. The establishment of a national home for an alien people in that country was a violation of the legitimate and fundamental rights of the inhabitants. The League of Nations did not possess the power, any more than the British Government did, to dispose of Palestine, or to grant to the Jews any political or territorial rights in that country. In so far as the Mandate purported to recognize any rights for alien Jews in Palestine, it was null and void.

"2. The second ground of invalidity of the Mandate is that it violated, in spirit and in letter, Article 22 of the Covenant of the League of Nations, under the authority of which it purported to be made. The Mandate violated Article 22 in three respects:

"(a) The Covenant had envisaged the Mandate as the best method of achieving its basic objective of ensuring the well-being and development of the peoples inhabiting the Mandated Territories.

"Was the Palestine Mandate conceived for the well-being and development of the inhabitants of Palestine? The answer is found in the provisions of the Mandate itself. The Mandate sought the establishment in Palestine of a national home for another people, contrary to the rights and wishes of the Palestinians ... It required the Mandatory to place the country under such political, administrative and economic conditions as would secure the establishment of a Jewish national home. It required the Mandatory to facilitate Jewish immigration into Palestine. It provided that a foreign body known as the Zionist Organization should be recognized as a public body for the purpose of advising and co-operating with the Administration of Palestine in matters affecting the establishment of the Jewish national home. It is clear that, although the Mandates System was conceived in the interest of the inhabitants of the Mandated Territory, the Palestine Mandate was conceived in the interest of an alien people originating from outside Palestine, and ran counter to the basic concept of mandates. As Lord Islington observed when he opposed the inclusion of the Balfour Declaration in the Palestine Mandate: "The Palestine Mandate is a real distortion of the mandatory system". The same distinguished Lord added:

"When one sees in Article 22 ... that the well-being and development of such peoples should form a sacred trust of civilization, and when one takes that as the note of the mandatory system, I think your Lordships will see that we are straying down a very far path when we are postponing self-government in Palestine until such time as the population is flooded with an alien race."

"(b) The Palestine Mandate also ran counter to the specific concept of mandates envisaged by Article 22 for countries detached from Turkey at the end of the First World War. In the case of those countries, the intention was to limit the Mandate to the rendering of temporary advice and assistance. It is doubtful whether the people of Palestine, as also other Arab peoples detached from Turkey, were in need of administrative advice and assistance from a Mandatory. Their level of culture was not inferior to that existing at the time in many of the nations that were Members of the League of Nations. Such Arab communities had actively participated with the Turks in the government of their country. Their political maturity and administrative experience were comparable to the political maturity and administrative experience of the Turks, who were left to stand alone.

"Be that as it may, the framers of the Palestine Mandate did not restrict the Mandatory's role to the rendering of administrative advice and assistance, but granted the Mandatory 'full powers of legislation and administration' (Article 1). Such 'full powers of legislation and administration' were not laid down in the interest of the inhabitants, but were intended to be used, and in fact were used, to establish by force the Jewish national home in

Palestine. Clearly this was an abuse of the purpose of the Mandate under the Covenant and a perversion of its raison d'être.

"The whole concept of the Palestine Mandate stands in marked contrast to the Mandate for Syria and Lebanon which was given to France on 24 July 1922. This Mandate conformed to Article 22 of the Covenant ...

"... The third ground of invalidity of the Mandate lies in the fact that its endorsement and implementation of the Balfour Declaration conflicted with the assurances and pledges given to the Arabs during the First World War by Great Britain and the Allied Powers. The denial to the Palestine Arabs of their independence and the subjection of their country to the immigration of a foreign people were a breach of those pledges." 63/

At the time that the Mandate was established, however, the people of Palestine were unable to question or to challenge it, and the process of establishing the "Jewish national home" commenced.

V. MANDATED PALESTINE: THE "JEWISH NATIONAL HOME"

The course of the Mandate

While the Mandate in principle required the development of self-governing institutions, its preamble and operative articles left no doubt that the principal thrust would be the implementation of the Balfour Declaration and the establishment of the "Jewish national home". British policy in Palestine during the period of the Mandate was directed to this end but, on facing strengthening Palestinian resistance, from time to time was adjusted to the force of circumstance. The basic policy was elaborated in 1922 (in the "Churchill Memorandum") and a pattern developed, by which an outburst of violent Palestinian resistance would be followed by an official inquiry Commission which would recommend modifications, but pressure from the Zionist Organization would veer official policy back to its main direction. This was the prevalent pattern in the 1920s but, as the Palestinian resistance strengthened, British policy was obliged to take into consideration the fact that the Palestinian people would not acquiesce in the alienation of their rights. By the end of the 1930s, Palestine became the scene of full-scale violence as the Palestinians rebelled for independence, the Zionists retaliated to hold the ground they had gained, and the British Government strove to control a situation, created by the Mandate, which was fast sliding into war.

The start of the Mandate

The British Mandate acquired jurisdiction de jure over Palestine in September 1923 following conclusion with Turkey of the Treaty of Lausanne. Before this, the de facto administration was first in the form of a military government from December 1917 to June 1920, with a civilian High Commissioner, Sir Herbert Samuel, taking office on 1 July 1920. In March 1921, ministerial responsibility for Palestine (along with other Mandated Territories), was transferred from the Foreign Office to the Colonial Office under Sir Winston Churchill.

The Balfour Declaration was first officially made public in Palestine only in 1920 after the installation of the civilian administration, having been kept officially confidential until then to minimize the chances of disorder caused by the protests that were anticipated from the Palestinians. Of course, the nature and object of the Declaration and the policy it sought to introduce had quickly become common knowledge. It had led quickly to violent conflict in Palestine. In London, a delegation from the Moslem-Christian Association of Palestine tried in 1921 and 1922 to present the Palestinian case to counter the sustained influence of the Zionist Organization on British authorities in both London and Jerusalem.

The "Churchill Memorandum"

The British Government moved to elaborate its policy in a statement (referred to as the "Churchill Memorandum") of 1 July 1922:

This statement disclaimed any intent to create "a wholly Jewish Palestine" or to effect "the subordination of the Arab population, language or culture in Palestine". But, at the same time, the statement, to assuage the Jewish community, made it clear that:

"... The Balfour Declaration, reaffirmed by the Conference of the Principal Allied Powers at San Remo and again in the Treaty of Sèvres, is not susceptible of change ... in order that this community should have the best prospect of free development and provide a full opportunity for the Jewish people to display its capacities, it is essential that it should know that it is in Palestine as of right and not on sufferance. That is the reason why it is necessary that the existence of a Jewish national home in Palestine should be internationally guaranteed, and that it should be formally recognized to rest upon ancient historic connection ...

"For the fulfilment of this policy it is necessary that the Jewish community in Palestine should be able to increase its numbers by immigration. This immigration cannot be so great in volume as to exceed whatever may be the economic capacity of the country at the time to absorb new arrivals". 64/

The "Churchill Memorandum" thus reaffirmed the Balfour Declaration, and the "historic connection" of the Jews with Palestine, asserting their presence was "as of right and not as sufferance". Immigration was to be subject only to the economic absorptive capacity of Palestine. Despite the assurances to the Palestinians, there was no doubt left that the principal object of the Churchill policy was to establish the "Jewish national home".

That indeed this was the intention was reiterated by Churchill several years afterwards, when he said that the intention of the 1922 White Paper was "to make it clear that the establishment of self-governing institutions in Palestine was to be subordinated to the paramount pledge and obligation of establishing a Jewish national home in Palestine". 65/ Faced with this determined effort concerted between a Great Power and a Jewish organization that had demonstrated its strength and influence, the Palestinian people refused to acquiesce in the scheme. They refused to join in the Churchill plan of setting up a legislative council to further these schemes, and they protested against the policy that strengthened the drive towards a Jewish "national home" in Palestine despite the strong opposition of the Palestinians, who declared:

"... We wish to point out here that the Jewish population of Palestine who lived there before the War never had any trouble with their Arab neighbours. They enjoyed the same rights and privileges as their fellow Ottoman citizens, and never agitated for the Declaration of November 1917. It is the Zionists outside Palestine who worked for the Balfour Declaration ...

"We therefore here once again repeat that nothing will safeguard Arab interests in Palestine but the immediate creation of a national government which shall be responsible to a Parliament of all whose members are elected by the people of the country - Moslems, Christians and Jews ...

"... [Otherwise] we see division and tension between Arabs and Zionists increasing day by day and resulting in general retrogression. Because the immigrants dumped upon the country from different parts of the world are ignorant of the language, customs and character of the Arabs, and enter Palestine by the might of England against the will of the people who are convinced that these have come to strangle them. Nature does not allow the question of a spirit of co-operation between two peoples so different, and it is not to be expected that the Arabs would bow to such a great injustice, or that the Zionists would so easily succeed in realizing their dreams ..." 66/

The "Churchill policy" secured the road for the Zionist Organization towards its goal of a Jewish State in Palestine made possible by the Balfour Declaration.

Two of the principal means advocated by the Zionist Organization for achieving the national home were large-scale immigration and land purchase. A third was the denial of employment to Palestinian labour.

The King-Crane Commission had reported that Jewish colonists were planning a radical transformation of Palestine:

> "The fact came out repeatedly in the Commission's conference with Jewish representatives, that the Zionists looked forward to a practically complete dispossession of the present non-Jewish inhabitants of Palestine, by various forms of purchase". 67/

Large scale immigration had started under the aegis of the Balfour Declaration soon after the war ended, and had already led to violent opposition by Palestinians in 1920 and 1921. With the endorsement of the Churchill policy, immigration accelerated, reaching a peak in 1924-1926, but soon sharply declined. At this point, Weizmann records:

> "The Balfour Declaration of 1917 was built on air ... every day and every hour of these last 10 years, when opening the newspapers, I thought: Whence will the next blow come? I trembled lest the British Government would call me and ask: 'Tell us, what is this Zionist Organization? Where are they, your Zionists?' ... The Jews, they knew, were against us; we stood alone on a little island, a tiny group of Jews with a foreign past."

The table below shows immigration figures during the 1920s.

Immigration into Palestine, 1920-1929 68/

Year	Recorded immigration	
	Jews	non-Jews
1920 (September-October)	5 514	202
1921	9 149	190
1922	7 844	284
1923	7 421	570
1924	12 856	697
1925	33 801	840
1926	13 081	829
1927	2 713	882
1928	2 178	908
1929	5 249	1 317

Thus during the decade about 100,000 Jewish immigrants entered Palestine, far short of the numbers envisaged by the Zionist Organization, but substantial enough to make a marked impact in a country where the total population in 1922 was officially estimated at about 750,000. 69/ In absolute terms the Jewish population more than doubled, and in percentage terms rose from below 10 per cent to over 17 per cent during this period.

Immigration was virtually under the control of Zionist organizations, as described in the report of an official Commission:

> "... We were informed by the Chief Immigration Officer that in the allocation to individuals of the certificates which are supplied in blank to the General Federation of Jewish Labour, it is the practice of that body to have regard to the political creed of the several possible immigrants rather than to their particular qualifications for admission to Palestine. It is clearly the duty of the responsible Jewish authorities to select for admission to Palestine those of the prospective immigrants who are best qualified on personal grounds to assist in the establishment of a Jewish national home in that country: that political creed should be a deciding factor in the choice between applicants is open to the strongest exception". 70/

Similarly, a number of Jewish organizations such as the Colonisation Department of the Zionist Organization, financed by the Keren ha-Yesod, were actively engaged in acquisition of land both for individual immigrant families as well as for the Yishuv or Jewish settlements. Several of these organizations had been operating since the nineteenth century, notably the Palestine Jewish Colonisation Association (PICA)*. With the British occupation of Palestine in 1918 all land transactions were suspended. The registers were reopened in 1920, at which time it was estimated that Jewish land acquisitions stood at about 650,000 dunums** (or 2.5 per cent of the total land area of 26 million dunums). 71/ By the end of the decade this figure had nearly doubled to 1,200,000 dunums, just below 5 per cent. 72/

A strict policy of what in today's terms would be described as racial discrimination was maintained by the Zionist Organization in this rapid advance towards the "national home". Only Jewish labour could service Jewish farms and settlements. The eventual outcome of this trend was a major outbreak of violence with unprecedented loss of life in 1929, which was investigated by the Shaw Commission. Another commission headed by Sir John Hope Simpson followed to investigate questions of immigration and land transfers. Certain observations of the Hope Simpson Commission are of interest, particularly on labour and employment policies.

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* PICA was the Palestinian section of ICA (Jewish Colonisation Association) led by Baron Maurice de Hirsch. The aim of ICA was to support Jewish emigration from Europe and Asia to other parts of the world; to create agricultural settlements in North and South America; and to obtain authorization and autonomy for these settlements.

** 1 dunum = approx. 1,000 sq. metres or 1/4 acre (1 sq. mile = approx. 2,560 dunums).

The Commission went into great detail in its report, dividing Palestine into areas according to cultivability, and estimating total cultivable land at about 6.5 million dunums of which about a sixth was in Jewish hands. 73/

The report described in some detail the employment policies of the Zionist agencies quoting some of their provisions:

> "The effect of the Jewish colonization in Palestine on the existing population is very intimately affected by the conditions on which the various Jewish bodies hold, sell and lease their land.
>
> "The Constitution of the Jewish Agency: Land Holding and Employment Clauses ...
>
> "(d) Land is to be acquired as Jewish property and ... the same shall be held as the inalienable property of the Jewish people.
>
> "(e) The Agency shall promote agricultural colonization based on Jewish labour ... it shall be deemed to be a matter of principle that Jewish labour shall be employed ..."
>
> "Keren Kayemet draft lease: Employment of Jewish labour only
>
> "... The lessee undertakes to execute all works connected with the cultivation of the holding only with Jewish labour. Failure to comply with this duty by the employment of non-Jewish labour shall render the lessee liable to the payment of compensation ..."
>
> "The lease also provides that the holding shall never be held by any but a Jew ..."
>
> "Keren ha-Yesod agreements: Employment of labour
>
> The following provisions are included:
>
> 'Article 7 - The settler hereby undertakes that ... if and whenever he may be obliged to hire help, he will hire Jewish workmen only.'
>
> "In the similar agreement for the Emek colonies, there is a provision as follows:
>
> 'Article 11 - The settler undertakes ... not to hire any outside labour except Jewish labourers.'" 74/

Commenting on the Zionist attitude towards the Palestinians, the report noted the Zionist policy of allaying Arab suspicions:

> "Zionist policy in regard to Arabs in their colonies. The above-quoted provisions sufficiently illustrate the Zionist policy with regard to the Arabs in their colonies. Attempts are constantly being made to establish the advantage which Jewish settlement has brought to the Arab. The most lofty sentiments are ventilated at public meetings and in Zionist propaganda. At the time of the Zionist Congress in 1931 a resolution was passed which 'solemnly declared the desire of the Jewish people to live with the Arab

people, to develop the homeland common to both into a prosperous community which would ensure the growth of the peoples'. This resolution is frequently quoted in proof of the excellent sentiments which zionism cherishes towards the people of Palestine. The provisions quoted above, which are included in legal documents binding on every settler in a Zionist colony, are not compatible with the sentiments publicly expressed." 75/

At the same time, the Commission, rejecting Zionist arguments in support of their discriminatory policies, considered that they violated the Mandate:

"Policy contrary to article 6 of Mandate ... The principle of the persistent and deliberate boycott of Arab labour in the Zionist colonies is not only contrary to the provisions of that article of the Mandate, but it is in addition a constant and increasing source of danger to the country." 76/

The report noted in the strongest terms the effect on indigenous Palestinians of Zionist policies.

"The effect of the Zionist colonization policy on the Arab. Actually the result of the purchase of land in Palestine by the Jewish National Fund has been that land has been extraterritorialized. It ceases to be land from which the Arab can gain any advantage either now or at any time in the future. Not only can he never hope to lease or to cultivate it, but, by the stringent provisions of the lease of the Jewish National Fund, he is deprived for ever from employment on that land. Nor can anyone help him by purchasing the land and restoring it to common use. The land is in mortmain and inalienable. It is for this reason that Arabs discount the professions of friendship and goodwill on the part of the Zionists in view of the policy which the Zionist Organization deliberately adopted." 75/

"Land available for settlement. It has emerged quite definitely that there is at the present time and with the present methods of Arab cultivation no margin of land available for agricultural settlement by new immigrants with the exception of such undeveloped land as the various Jewish agencies hold in reserve." 77/

These developments in Palestine at the end of the 1920s - the 1929 Palestinian revolt and the reports of the Shaw and Hope Simpson Commissions - heightened awareness of the dangerous situation in Palestine as the Zionist drive towards a Jewish State met increasing Palestinian opposition. While reinforcing its military strength in Palestine, Great Britain issued a new statement of policy, called the Passfield White Paper of October 1930, in an effort to control the pressures that were building.* While criticizing both Jewish leaders for exerting pressure to obtain official compliance with Zionist wishes in matters of immigration and land transfers, and Palestinians for demanding self-determination which "... would render it impossible ... to carry out, in the fullest sense, the double undertaking", 78/ the 1930 policy, attempted to introduce an important change in emphasis from the Churchill paper which gave first priority to establishing the Jewish State. The Passfield paper commented:

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* Named after the then Colonial Secretary Lord Passfield.

"... attempts have been made to argue, in support of Zionist claims, that the principal feature of the Mandate is the passages regarding the Jewish national home, and that the passages designed to safeguard the rights of the non-Jewish community are merely secondary considerations qualifying, to some extent, what is claimed to be the primary object for which the Mandate has been framed ...

"It is a difficult and delicate task of His Majesty's Government to devise means whereby, in the execution of its policy in Palestine, equal weight shall at all times be given to the obligations laid down with regard to the two sections of the population and to reconcile those two obligations where, inevitably, conflicting interests are involved". 79/

The paper announced a renewed attempt to establish a legislative council. Further it gave notice of intent to reassert authority over the vital issues of immigration and land transfers, which had been dominated by the Jewish Agency, working heavily against Palestinian interests. 80/ Reflecting awareness of the intensifying conflict the paper concludes with a suggestion of realization that Palestinian grievances had justification, but were faced with inimical circumstance:

"To the Arabs His Majesty's Government would appeal for a recognition of the facts of the situation, and for a sustained effort at co-operation in obtaining that prosperity for the country as a whole by which all will benefit. From the Jewish leaders, His Majesty's Government ask a recognition of the necessity for making some concessions on their side in regard to the independent and separatist ideals which have been developed in some quarters in connection with the Jewish national home ..." 81/

The Passfield White Paper drew strong criticism from the Zionist Organization and its supporters, and soon was virtually negated by a letter written in 1931 by the British Prime Minister to Dr. Weizmann, again giving paramountcy to the goals of Zionism rather than "equal weight" to the rights of the people of Palestine. Stating that the letter was meant "to meet certain criticisms put forward by the Jewish Agency", the letter reasserted that "the undertaking of the Mandate is an undertaking to the Jewish people and not only to the Jewish population of Palestine". 82/

The "MacDonald letter" made clear that Palestine would be governed in accordance with the Churchill policy of 1922, and that the restrictions suggested by Lord Passfield on Jewish immigration and land transfers would not be applied.

Dr. Weizmann's words on these developments are of interest:

"... The Passfield White Paper may be regarded as the most concerted effort - until the White Paper of 1939 - on the part of a British Government to retract the promise made to the Jewish people in the Balfour Declaration. That attack, too, was successfully repulsed.

"... On February 13, 1931, there was an official reversal of policy. It did not take the form of a retraction of the White Paper - that would have meant a loss of face - but of a letter addressed to me by the Prime Minister, read in the House of Commons and printed in Hansard. I considered that the letter rectified the situation - the form was unimportant - and I so indicated to the Prime Minister.

"I was to be bitterly attacked in the Zionist Congress of that year for accepting a letter in place of another White Paper. But whether I was right or not in my acceptance may be judged by a simple fact: it was under MacDonald's letter to me that the change came about in the Government's attitude, and in the attitude of the Palestine administration, which enabled us to make the magnificent gains of the ensuing years. It was under MacDonald's letter that Jewish immigration into Palestine was permitted to reach figures like 40,000 for 1934 and 62,000 for 1935, figures undreamed of in 1930". 83/

This sudden reversal of British policy, coming as it did after Palestinian hopes for fair play had been raised by the Passfield White Paper, did little to improve the deteriorating situation in Palestine.

The start of the notorious Nazi persecution of Jews in Europe brought repercussions to Palestine which were to exacerbate the mounting tensions. While the majority of European Jews fleeing the Nazi terror chose the United States and Britain, large numbers sought refuge in Palestine. Immigration thus sharply increased, as shown by the following figures:

Immigration into Palestine 1930-1939 84/

1930	4 944
1931	4 075
1932	9 553
1933	30 327
1934	42 359
1935	61 854
1936	29 727
1937	10 536
1938	12 868
1939	16 405

Compared to the 100,000 in the 1920s, Palestine received about 232,000 legal immigrants in the 1930s. The Jewish population in 1939 numbered over 445,000 out of a total of about 1,500,000 - nearly 30 per cent compared to the less than 10 per cent 20 years before. Similarly, by the end of 1939, Jewish holdings of land had risen to almost 1.5 million dunums compared to the 650,000, of the total area of 26 million dunums, held at the start of the Mandate.

Between 1930 and 1936, the British Administration tried to initiate measures, such as the establishment of elected municipal councils, and later, a legislative council (with a large majority of appointed members) in an attempt to reduce political friction. These measures were ineffective. The drive of political zionism to establish a settler State in Palestine was met by violent resistance from the Palestinians, and this situation simmered until it boiled over in 1936.

VI. MANDATED PALESTINE - PALESTINIAN RESISTANCE

The start of Palestinian resistance

Throughout the period of the mandate, Palestinian resentment against the denial of their inherent right of national self-determination, and against the colonization of their land by non-Palestinians, manifested itself in a series of outbreaks of violence which, becoming virtually endemic in Palestinian politics, mounted in intensity as the mandate prolonged. The British Government regularly appointed a Commission of Inquiry to investigate the "disturbances" and to present recommendations. But as long as the inherently conflicting lines of policy in the mandate were implemented, violence and resistance continued.

On 2 November 1918, non-violent protests marked the first anniversary of the Balfour Declaration. As early as April 1920, while Palestine was still under military government, anti-Jewish riots broke out just as the San Remo Conference was finalizing the allocation of the Palestine Mandate to Great Britain. The report of the military commission of inquiry was not published at the time, but was referred to in the report of the Royal Commission in 1937. The underlying causes of the riots were cited as:

> "The Arabs' disappointment at the non-fulfilment of the promises of independence which they believed to have been given them in the War.
>
> "The Arabs' belief that the Balfour Declaration implied a denial of the right of self-determination and their fear that the establishment of a national home would mean a great increase of Jewish immigration and would lead to their economic and political subjection to the Jews." 85/

Within a year of Palestine's coming under civil administration, riots again broke out in May 1921, spreading from a clash between Jewish factions. There were 95 dead and 220 injured. A formal inquiry commission, headed by Sir Thomas Haycraft, Chief Justice of Palestine, found:

> "The fundamental cause of the Jaffa riots and the subsequent acts of violence was a feeling among the Arabs of discontent with, and hostility to, the Jews, due to political and economic causes, and connected with Jewish immigration, and with their conception of Zionist policy as derived from Jewish exponents.
>
> "The immediate cause of the Jaffa riots on the 1st May was an unauthorized demonstration of Bolshevik Jews, followed by its clash with an authorized demonstration of the Jewish Labour Party.
>
> "The racial strife was begun by Arabs, and rapidly developed into a conflict of great violence between Arabs and Jews, in which the Arab majority, who were generally the aggressors, inflicted most of the casualties.
>
> "The outbreak was not premeditated or expected, nor was either side prepared for it; but the state of popular feeling made a conflict likely to occur on any provocation by any Jews ..." 86/

The revolt of 1929

The "Churchill Memorandum" reaffirmed the "national home" policy, and Palestinian resentment again broke out into violence in August 1929, sparked by a dispute over the Wailing Wall in Jerusalem. The clashes between Palestinians and Jews left 220 dead and 520 injured on both sides, and British reinforcements, including aircraft, naval vessels and armoured cars, had to be called in from outside Palestine before the situation was brought under control.

A special Commission, headed by Sir Walter Shaw, a retired Chief Justice of the Straits Settlements, investigated this outbreak. The Shaw Commission observed:

> "In less than 10 years three serious attacks have been made by Arabs on Jews. For 80 years before the first of these attacks there is no recorded instance of any similar incidents. It is obvious then that the relations between the two races during the past decade must have differed in some material respect from those which previously obtained. Of this we found ample evidence. The reports of the Military Court and of the local Commission which, in 1920 and in 1921 respectively, enquired into the disturbances of those years, drew attention to the change in the attitude of the Arab population towards the Jews in Palestine. This was borne out by the evidence tendered during our inquiry when representatives of all parties told us that before the War the Jews and Arabs lived side by side if not in amity, at least with tolerance, a quality which to-day is almost unknown in Palestine". 87/

The Commission's findings on the causes of the violence:

> "... If there was in Palestine in August last a widespread feeling of resentment amongst the Arabs at the failure of His Majesty's Government to grant them some measure of self-government, it is at least probable that this resentment would show itself against the Jews, whose presence in Palestine would be regarded by the Arabs as the obstacle to the fulfilment of their aspirations".
>
> "That such a feeling existed among the leaders of the Arabs and the official and educated classes there can be no question ...
>
> "... The Arab people of Palestine are today united in their demand for representative government. This unity of purpose may weaken but it is liable to be revived in full force by any large issues which involve racial interests. It is our belief that a feeling of resentment among the Arab people of Palestine consequent upon their disappointment at the continued failure to obtain any measure of self-government ... was a contributory cause to the recent outbreak and is a factor which cannot be ignored in the consideration of the steps to be taken to avoid such outbreaks in the future". 88/

The Shaw Commission's report was a major factor in the issue of the Passfield White Paper towards redressing these grievances, but it proved abortive, and the people of Palestine were soon to resort to violence again.

The riots of 1933

In 1933, the Nazis took power in Germany, and their imminent infamous persecution of Jewry brought an exodus of Jews from Germany and other European countries. Large numbers came to Palestine, exciting the already simmering resentment again into violence. No formal commission was appointed to inquire into this new outbreak in 1933, which was surveyed in the Peel Report of 1937.

Examining the effects of the sudden increase in immigration, the report comments:

> "The Arab reaction to this sudden and striking development was quite natural. All that the Arab leaders had felt in 1929 they now felt more bitterly ... the greater the Jewish inflow, the greater the obstacle to their attainment of national independence. And now, for the first time, a worse fate seemed to threaten them than the withholding of their freedom and the continuance of Mandatory rule. Hitherto, with the high rate of natural increase among the Arabs, it has seemed impossible that the Jews could become a majority in Palestine within measurable time. But what if the new flood of immigration were to rise still higher? That question gave a very different colour to the idea of self-government in Palestine as Arab nationalists had hitherto conceived it. It opened up the intolerable prospect of a Jewish State - of Palestinian Arabs being ruled by Jews. It is not surprising, therefore, to find ... the old antagonism growing hotter and hotter, till it bursts again into flames." 89/

Clashes erupted mainly in Jerusalem and Jaffa, with considerable casualties, although not as heavy as those of 1929. The report continues:

> "So one more page of the history of Palestine under the Mandate had been written in blood. And there was one feature of this last outbreak of Arab violence which was as unprecedented as it was significant. In 1920, 1921 and 1929 the Arabs had attacked the Jews. In 1933 they attacked the Government. The idea that the British authorities in London or Jerusalem were trying to hold the balance even between Arab and Jews was now openly scouted. They were allies of the Jews, it was said, and the enemies of the Arabs. The Mandate was merely a cynical device for promoting British 'imperialism' under a mask of human consideration for the Jews ...
>
> "It was thus becoming clear that the crux of the situation in Palestine was not growing less formidable with the passing of time. On the contrary, the longer the Mandate operated, the stronger and more bitter Arab antagonism to it became". 90/

This Palestinian antagonism and resistance to the Mandate from then on gathered strength. By 1933, the various Palestinian political parties and groupings had united to form an Arab Executive Committee, and showed more inclination to co-operate with the British authorities. At this stage the Jews, still in a minority despite massive immigration, were the party to feel apprehension over representative government, and a new move in 1936 to set up a legislative council was defeated in Parliament after the Zionist Congress had:

> "... expressed its categorical rejection of the scheme ... as contrary to the spirit of the Mandate". 91/

The Palestinian rebellion against the British Mandate

In 1936, the Palestinian resistance to foreign rule and to foreign colonization broke out into a major rebellion that lasted virtually until the outbreak of the Second World War. Palestinian demands for independence drew impetus from the simultaneous nationalist agitations in Egypt and Syria which had forced Great Britain and France to open treaty negotiations with those two Arab countries neighbouring Palestine.

In April 1936, what started as minor Arab-Jewish clashes quickly flared into a widespread revolt. A new union of Palestinian political parties was formed, the Arab Higher Committee, headed by the Mufti of Jerusalem, Al Hajj Amin al-Husseini. The Committee called for a general strike to support the demand for national government. Despite strong Palestinian resistance to Jewish immigration, the British Government issued permits for several thousand new immigrants, offering further provocation to Palestinian nationalists. An unprecedented feature of this nationalist movement was the open identification with it by senior Arab officials of the Palestine administration who protested to the High Commissioner that Palestinians had been forced to violence because of loss of faith in British pledges and alarm at the extent to which Britain was susceptible to Zionist pressure.

As the strike prolonged, violence increased. There were attacks on British troops and police posts as well as on Jewish settlements, sabotage of roads, railways, pipelines and so on. The British administration imposed curfews, called in troop reinforcements from Britain, Egypt and Malta, and resorted to mass arrests, collective fines, and internments in concentration camps and other emergency measures. Large parts of the Arab quarter in the town of Jaffa were demolished by the authorities on the grounds of urban improvement - in the midst of the revolt - but order could not be restored.

During earlier Palestinian Arab uprisings, Jewish settlers often had restrained retaliation under the doctrine of the Havlaga, or restraint. But now, not unexpectedly, there were Jewish reprisals. The principal vehicle was the Haganah, a covert paramilitary force formed early in the mandate years (and which was to play a leading role in later events in Palestine). The Jewish settlers also benefited from 2,800 of their number being enrolled in the police forces as supernumeraries.

The failure of the Palestine authorities to suppress the revolt by military means led to political measures. The British Government announced the appointment of a Royal Commission to investigate the causes of the "disturbances" and turned to the rulers of other Arab States for the mediation that eventually led to the calling off of the strike in October 1936. The official count of casualties was 275 dead and 1,112 wounded, but the Royal Commission's estimate was 1,000 deaths. 92/

The end of the strike was to prove a lull in the rebellion. The issue of the Royal Commission's report brought an almost immediate renewal of violence, starting with the assassination of a British District Commissioner. Although it was not conclusively established that the assassins were Arab, the High Commissioner declared the Arab Higher Committee proscribed, arresting its prominent leaders and deporting them to the Seychelles Islands, while the Mufti of Jerusalem was able to escape to Lebanon, from where he continued to direct the rebellion.

Military courts were established, awarding 58 death sentences by the end of 1938, apart from numerous life imprisonments. 93/ To interdict support for the guerrillas, a barbed-wire fence, called the "Teggert line" was set up along portions of the Syrian, Transjordanian and Lebanese borders.

> "Throughout 1937 British armed forces in Palestine had amounted to no more than two infantry brigades. In July 1938, two additional infantry battalions, two squadrons of the Royal Air Force, an armoured car and cavalry unit, and a battle cruiser were endeavouring to suppress terrorism which, since April, had become open rebellion. By the end of October there were in the country eighteen infantry battalions, two cavalry regiments, a battery of howitzers, and armoured car units, or a total of 18,000 to 20,000 troops, while some 2,930 additional British police were recruited during the year. A virtual military reoccupation of the country proved necessary to deal with the explosion of bombs and land mines, the murder and snipings which were almost daily occurrences. Heavy military concentrations alone preserved a semblance of order in the northern and central parts of the country, while the Jerusalem and southern districts were entirely out of hand ... The main military campaign culminated during the first weeks of October, when troops peacefully occupied the old city - or Arab quarter - of Jerusalem. This operation, which might have been dangerous owing to the narrow streets, was accomplished without serious loss, and by the end of that month all Palestine was under military control ...
>
> "The nature and extent of the Arab rebellion of 1938 can be gauged not only from the figures given above of British armed forces in the country, but also from the fact that casualties during the year reached a total of 3,717, as against 246 in 1937 ..." 94/

As in the first phase of the rebellion, the Jewish side also conducted its own retaliations and reprisals. In addition to the Haganah, another organization, the Irgun Tzeva'i Leumi was active, as were "special night squads", trained by Major Orde Wingate, a serving British officer. According to Christopher Sykes, "the SNS gradually became what Wingate secretly intended, the beginnings of a Jewish army". 95/

By 1939, the large-scale military operations by the British Government against the Palestinian nationalist guerrillas were showing success. Meanwhile, Palestinian grievances were at last being heard in London at a conference attended by other Arab States. As war approached, Britain again turned to these friendly Arab States to intercede in Palestine, and the rebellion was ended after three and a half years.

The rebellion of 1936-1939 culminated 15 years of Palestinian resistance to the Mandate, and was to bring far-reaching consequences in Palestine. It left no doubt that the Palestinians would not acquiesce in the loss of their country under the Balfour Declaration and disproved the Churchill policy's insistence that the "dual obligations" undertaken could be reconciled and would not disturb the peace in Palestine. The response of the British Government had been to propose, in place of the independence pledged two decades earlier, a plan to partition Palestine.

VII. MANDATED PALESTINE: THE PARTITION PLANS

The Peel Commission Report

The Royal Commission to inquire into the "disturbances" was headed by a former Secretary of State for India, Lord Robert Peel, and presented a 400-page report, a document of major importance in any examination of the Palestine problem. While defending the British Government's record in Palestine and standing by the Balfour Declaration, it recognized the force and justice of the demands by the Palestinian people for independence. It acknowledged that, contrary to the previous official position, Palestinian resistance to the Mandate had shown that the "dual obligations" were not reconcilable. Faced with this dilemma it recommended, in Solomonian fashion, the partition of Palestine.

Because of its importance as a major turning point, after the Balfour Declaration, in British policy in Palestine, the Royal Commission's report is quoted below at some length.

Commenting on the assumption that the "dual obligations" were reconcilable:

> "It must have been obvious from the outset that a very awkward situation would arise if that basic assumption should prove false. It would evidently make the operation of the Mandate at every point more difficult, and it would greatly complicate the question of its termination. To foster Jewish immigration in the hope that it might ultimately lead to the creation of a Jewish majority and the establishment of a Jewish State with the consent or at least the acquiescence of the Arabs was one thing. It was quite another thing to contemplate, however remotely, the forcible conversion of Palestine into a Jewish State against the will of the Arabs. For that would clearly violate the spirit and intention of the Mandates System. It would mean that national self-determination had been withheld when the Arabs were a majority in Palestine and only conceded when the Jews were a majority. It would mean that the Arabs had been denied the opportunity of standing by themselves; that they had, in fact, after an interval of conflict, been bartered about from Turkish sovereignty to Jewish sovereignty. 96/
>
> "... the crux was plain enough to Arab eyes. It was the Balfour Declaration and its embodiment in the draft Mandate and nothing else which seemingly prevented their attaining a similar measure of independence to that which other Arab communities already enjoyed. And their reaction to this crux was logical. They repudiated the Balfour Declaration. They protested against its implementation in the draft Mandate. 'The people of Palestine,' they said, 'cannot accept the creation of a national home for the Jewish people in Palestine.' And they refused to co-operate in any form of government other than a national government responsible to the Palestinian people. 97/
>
> "... Nowhere, as it happened, was the spirit of nationalism more acute after the War than in this area of the Near and Middle East. In all of its constituent territories, except Transjordan, there were serious disturbances, and in all of them, except Palestine, there was a marked advance towards self-government." 98/

On the rebellion:

"... One other feature of the 'disturbances' of last year had likewise appeared before. It has been pointed out that the outbreak of 1933 was not only, or even mainly, an attack on the Jews, but an attack on the Palestine Government. In 1936 this was still clearer. Jewish lives were taken and Jewish property destroyed; but the outbreak was chiefly and directly aimed at the Government. The word 'disturbances' gives a misleading impression of what happened. It was an open rebellion of the Palestinian Arabs, assisted by fellow-Arabs from other countries, against British Mandatory rule." 99/

On its causes:

"... After examining this and other evidence and studying the course of events in Palestine since the War, we have no doubt as to what were 'the underlying causes of the disturbances' of last year. They were:

"(i) The desire of the Arabs for national independence.

"(ii) Their hatred and fear of the establishment of the Jewish National Home.

'We make the following comments on these two causes:

"(i) They were the same underlying causes as those which brought about the 'disturbances' of 1920, 1921, 1929 and 1933.

"(ii) They were, and always have been, inextricably linked together. The Balfour Declaration and the Mandate under which it was to be implemented involved the denial of national independence at the outset. The subsequent growth of the national home created a practical obstacle, and the only serious one, to the concession later of national independence. It was believed that its further growth might mean the political as well as economic subjection of the Arabs to the Jews, so that if, ultimately, the Mandate should terminate and Palestine become independent, it would not be a national independence in the Arab sense but self-government by a Jewish majority.

"(iii) They were the only 'underlying' causes. All the other factors were complementary or subsidiary, aggravating the two causes or helping to determine the time at which the disturbances broke out." 100/

On the new Arab hostility towards the Jews:

"... It is indeed, one of the most unhappy aspects of the present situation - this opening of a breach between Jewry and the Arab world. We believe that not in Palestine only but in all the Middle East the Arabs might profit from the capital and enterprise which the Jews are ready enough to provide; and we believe that in ordinary circumstances the various Arab Governments would be ready enough on their side to permit a measure of Jewish immigration under their own conditions and control. But the creation of the national home has been neither conditioned nor controlled by the Arabs of Palestine. It has been established directly against their will. And that

hard fact has had its natural reaction on Arab minds elsewhere. The Jews were fully entitled to enter the door forced open for them into Palestine. They did it with the sanction and encouragement of the League of Nations and the United States of America. But by doing it they have closed the other doors of the Arab World against them. And in certain circumstances this antagonism might become dangerously aggressive." 101/

On the Arab-Jewish relationship:

"An irrepressible conflict has arisen between two national communities within the narrow bounds of one small country. About 1,000,000 Arabs are in strife, open or latent, with some 400,000 Jews. There is no common ground between them. The Arab community is predominantly Asian in character, the Jewish community predominantly European. They differ in religion and in language. Their cultural and social life, their ways of thought and conduct, are as incompatible as their national aspirations. These last are the greatest bar to peace." 102/

On Palestinian demands for independence:

"... When at last they came before us, headed by the Mufti of Jerusalem, the first words of the prepared statement he made to us, were these: 'The Arab cause in Palestine is one which aims at national independence. In its essence it does not differ from similar movements amongst the Arabs in all other Arab territories.' And at the close of his statement he stated that the first cause of the 'disturbances' was 'the fact that the Arabs in Palestine were deprived of their natural and political rights'; and he summed up the Arab demands as (1) 'the abandonment of the experiment of the Jewish national home', (2) 'the immediate and complete stoppage of Jewish immigration', (3) 'the immediate and complete prohibition of the sale of Arab land to Jews', and (4) 'the solution of the Palestine problem on the same basis as that on which were solved the problems in Iraq, Syria and the Lebanon, namely by the termination of the Mandate and by the conclusion of a treaty between Great Britain and Palestine by virtue of which a national and independent government in constitutional form will be established'.

"Thus it is clear that the standpoint of the Arab leaders has not shifted by an inch from that which they adopted when first they understood the implications of the Balfour Declaration. The events of 17 years have only served to stiffen and embitter their resistance and, as they argue, to strengthen their case. And the core of their case, it must be stressed again, is political.

"... Nor is the conflict in its essence an interracial conflict, arising from any old instinctive antipathy of Arabs towards Jews. There was little or no friction, as we have seen, between Arab and Jews in the rest of the Arab world until the strife in Palestine engendered it. And there has been precisely the same political trouble in Iraq, Syria and Egypt - agitation, rebellion and bloodshed - where there are no 'national homes'. Quite obviously, then, the problem of Palestine is political. It is, as elsewhere, the problem of insurgent nationalism. The only difference is that in Palestine Arab nationalism is inextricably interwoven with antagonism to the Jews. And the reasons for that, it is worth repeating, are equally obvious. In the first place, the establishment of the national home involved at the

outset a blank negation of the rights implied in the principle of national self-government. Secondly, it soon proved to be not merely an obstacle to the development of national self-government, but apparently the only serious obstacle. Thirdly, as the home has grown, the fear has grown with it that, if and when self-government is conceded, it may not be national in the Arab sense, but government by a Jewish majority. That is why it is difficult to be an Arab patriot and not to hate the Jews.

"... The story of the last 17 years is proof that this Arab nationalism with its anti-Jewish spearhead is not a new or transient phenomenon. It was there at the beginning; its strength and range have steadily increased; and it seems evident to us from what we saw and heard that it has not yet reached its climax." 103/

Before making its recommendations, the Royal Commission recapitulated the political situation in Palestine in a chapter entitled "The Force of Circumstance", recognizing that the terms of the Mandate, with its inclusion of the Balfour Declaration, could only be implemented by force; and with no assurance of success:

"... The moral objections to maintaining a system of government by constant repression are self-evident. Nor is there any need to emphasize the undesirable reactions of such a course of policy on opinion outside Palestine.

"And the worst of it is that such a policy leads nowhere. However vigorously and consistently maintained, it will not solve the problem. It will not allay, it will exacerbate the quarrel between the Arabs and the Jews. The establishment of a single self-governing Palestine will remain just as impracticable as it is now. It is not easy to pursue the dark path of repression without seeing daylight at the end of it." 104/

The Royal Commission then made its recommendations:

"... Manifestly the problem cannot be solved by giving either the Arabs or the Jews all they want. The answer to the question, 'Which of them in the end will govern Palestine?' must surely be 'neither' ...

"... Partition seems to offer at least a chance of ultimate peace. We can see none in any other plan." 105/

This public recognition that the irreconcilable terms of the Mandate had made it unworkable signalled its imminent end. The radical recommendation of partition was accepted by the British Government in a White Paper in July 1937:

"In spite of many discouraging experiences during the past seventeen years, His Majesty's Government have based their policy on this expectation, and have taken every opportunity of encouraging co-operation between Arabs and Jews. In the light of experience and of the arguments adduced by the Commission, they are driven to the conclusion that there is an irreconcilable conflict between the aspirations of Arabs and Jews in Palestine, that these aspirations cannot be satisfied under the terms of the present Mandate, and that a scheme of partition on the general lines recommended by the Commission represents the best and most hopeful solution of the deadlock ...

"In supporting a solution of the Palestine problem by means of partition, His Majesty's Government are much impressed by the advantages which it offers both to the Arabs and the Jews. The Arabs would obtain their national independence, and thus be enabled to co-operate on an equal footing with the Arabs of neighbouring countries in the cause of Arab unity and progress. They would be finally delivered from all fear of Jewish domination ... On the other hand, partition would secure the establishment of the Jewish national home and relieve it from any possibility of its being subject in the future to Arab rule. It would convert the Jewish national home into a Jewish State ..." 106/

Partition was unacceptable to the Palestinians, whose struggle for self-determination had brought the British Government to admit the unworkability of the Mandate. The rebellion flared up again, lasting until 1939. The Arab Higher Committee formally reasserted the right of Palestinians to full independence in the whole of Palestine, and the replacement of the Mandate by a treaty between Great Britain and an independent Palestine.

The Royal Commission's report was the subject of intense debate at the twentieth Zionist Congress in Zurich in August 1937. Dr. Weizmann urged acceptance of the partition plan (with fundamental modifications) since the world was now viewing the problem in terms of a Jewish State. However, the Congress apparently did not consider that the time had come to accept a Jewish State in only part of Palestine. It was too early - the ultimate aim was to establish the Jewish State in all of Palestine, and at this point the numbers of immigrants were too small and, in Zionist eyes, the mission of the Mandate was unfulfilled. The Congress declared that it:

"... rejects the assertion of the Palestine Royal Commission that the Mandate has proved unworkable, and demands its fulfillment. The Congress directs the Executive to resist any infringement of the rights of the Jewish people internationally guaranteed by the Balfour Declaration and the Mandate.

"The Congress declares that the scheme of partition put forward by the Royal Commission is unacceptable.

"The Congress empowers the Executive to enter into negotiations with a view to ascertaining the precise terms of His Majesty's Government for the proposed establishment of a Jewish State." 107/

The Royal Commission's partition plan (which, the Commission emphasized, was not a final or definitive proposal) allotted roughly the northern quarter of Palestine and the major part of the western coastal plain to the Jewish state, about a third of the country's area. Jerusalem, Bethlehem and Nazareth, with a corridor to the sea at Jaffa, would continue under a British Mandate (map at annex VII).

The British Government then dispatched another "technical" commission, known as the "Woodhead Commission" to examine the practicability of partition. This Commission, which held its inquiries in Palestine from April to August 1938, concluded that the Royal Commission's plan was unworkable since almost half of the population of the proposed Jewish State would be Palestinian Arab, and raise the danger of mass population transfers. The Commission proposed two other plans. One amended the Royal Commission's plan by placing Galilee under mandate instead of

allotting it to the Jewish State (annex VIII). The other proposed that virtually the southern half of Palestine, the Jerusalem enclave, and a large area in the north remain under mandate, the Jewish State occupying the coastal plain north of Jaffa, with the Arab state being allotted the remainder of the territory (annex IX).

The Commission itself expressed reservations over the viability of any partition scheme, and with the resurgence of the Palestinian rebellion, the British Government abandoned the idea of partitioning Palestine, announcing in a new statement of policy that:

> "... further examination has shown that the political, administrative and financial difficulties involved in the proposal to create independent Arab and Jewish States inside Palestine are so great that this solution of the problem is impracticable." 108/

The London Conference, 1939

To discuss alternatives, a round-table conference in London was held to which the British Government invited representatives of Palestinians (excluding those held responsible for violence), Jews (who could select whichever representatives they wished) and Arab States. If the Conference could not produce an agreement, the British Government announced, it would decide and implement its own policy.

The London Conference turned out to be parallel but separate Anglo-Arab and Anglo-Jewish conferences in February-March 1939, since the Arabs refused to formally recognize the Jewish Agency. All the independent Arab States participated: Egypt, Iraq, Saudi Arabia, Transjordan and the Yemen. It was for this conference, which reached to the roots of the Palestine issue, that the British Government made public the Husain-McMahon correspondence, which was examined by the Anglo-Arab Committee.

The Arabs were determined to secure the inherent right of the Palestinians to their independence, which had been pledged 20 years earlier and for which the Palestinians had risen up in arms. The Jews, backed by the Balfour Declaration and its incorporation in the Mandate, were determined to achieve a Jewish State, particularly at a time when Nazi persecution of Jewry in Europe was inflicting its notorious excesses and his people were facing what Dr. Weizmann described as "this, the blackest hour of Jewish history". Although meetings between all three sides took place towards the end of the London Conference, British proposals for an agreement were first rejected by the Jewish side and, after revision to partially meet the Jewish objections, by both sides.

The "MacDonald White Paper"

The end of this attempt to reach an agreement left the British Government facing the situation which its policies of two decades had created in Palestine, and now it presented its unilateral policy. A new White Paper was issued in May 1939, disclaiming any intention to create a Jewish State, rejecting Arab demands that Palestine become independent as an Arab State, and envisaging the termination of the mandate by 1949 with independence for Palestine in which both Palestinians and Jews would share in government. Immigration would end, after the admission of 75,000 new immigrants over the first five years. The Government would strictly regulate transfer of land.

Important excerpts from this last major British policy statement on Palestine before the Second World War deserve note:

"... His Majesty's Government do not read either the Statement of Policy of 1922 or the letter of 1931 as implying that the Mandate requires them, for all time and in all circumstances, to facilitate the immigration of Jews into Palestine subject only to consideration of the country's economic absorptive capacity. Nor do they find anything in the Mandate or in subsequent Statements of Policy to support the view that the establishment of a Jewish national home in Palestine cannot be effected unless immigration is allowed to continue indefinitely. If immigration has an adverse effect on the economic position in the country, it should clearly be restricted; and, equally, if it has a seriously damaging effect on the political position in the country, that is a factor that should not be ignored ... it cannot be denied that fear of indefinite Jewish immigration is widespread amongst the Arab population and that this fear has made possible disturbances which have given a serious setback to economic progress, depleted the Palestine exchequer, rendered life and property insecure, and produced a bitterness between the Arab and Jewish populations which is deplorable between citizens of the same country. If in these circumstances immigration is continued up to the economic absorptive capacity of the country, regardless of all other considerations, a fatal enmity between the two peoples will be perpetuated, and the situation in Palestine may become a permanent source of friction amongst all peoples in the Near and Middle East ...

"... His Majesty's Government are convinced that in the interests of the peace and well-being of the whole people of Palestine, a clear definition of policy and objectives is essential. The proposal of participation recommended by the Royal Commission would have afforded such clarity, but the establishment of self-supporting independent Arab and Jewish States within Palestine has been found to be impracticable. It has therefore been necessary for His Majesty's Government to devise an alternative policy which will, consistently with their obligations to Arabs and Jews, meet the needs of the situation in Palestine ...

"... It has been urged that the expression 'a national home for the Jewish people' offered a prospect that Palestine might in due course become a Jewish State or Commonwealth. His Majesty's Government do not wish to contest the view, which has been expressed by the Royal Commission, that the Zionist leaders at the time of the issue of the Balfour Declaration recognized that an ultimate Jewish State was not precluded by the terms of the Declaration. But, with the Royal Commission, His Majesty's Government believe that the framers of the Mandate in which the Balfour Declaration was embodied could not have intended that Palestine should be converted into a Jewish State against the will of the Arab population of the country ...

"... and His Majesty's Government therefore now declare unequivocally that it is not part of their policy that Palestine should become a Jewish State. They would indeed regard it as contrary to their obligations to the Arabs under the Mandate, as well as to the assurances which have been given to the Arab people in the past, that the Arab population of Palestine should be made the subjects of a Jewish State against their will ..." 109/

"... The objective of His Majesty's Government is the establishment within 10 years of an independent Palestine State in ... treaty relations with the United Kingdom.

"... the independent State should be one in which Arabs and Jews share in government in such a way as to ensure that the essential interests of each community are safeguarded ..." 109/

After two decades of Mandatory rule and colonization from abroad, the inherent rights of the Palestinians finally had been acknowledged. But the independence now being pledged was to a country where population and land patterns had been so transformed while it had been a territory under a League of Nations mandate, that the road to independence was full of pits and obstructions. For the Zionist movement the White Paper was a severe setback to their plans, and a new strategy was to be devised outside the framework of the Mandate of the League of Nations which, in any event, was nearing its end.

VIII. PALESTINE AND THE LEAGUE OF NATIONS

The international sanction for Great Britain to implement the Balfour Declaration's policy in Palestine had formally derived from the League of Nations, which conferred the legal title, and in whose name the Mandatory Power had governed. The question of where the ultimate sovereignty of a Mandated Territory lay has been the subject of varying interpretations, which need not be examined in this study. Several authorities, basing their views on the wording of Article 22 of the Covenant, and stressing that the League was founded on the principle of non-annexation of territories and that the mandates prohibited the alienation of territory (article 5 of the Palestine Mandate), have ruled that sovereignty rested with the people of a Mandated Territory, albeit in suspense since they could not exercise it. One representative view may be quoted:

> "The drafters of the Treaty of Versailles, bearing in mind above all the right of peoples to self-determination, formally declared that Mandated Territories were not to be annexed by any Power, be it the community of States known as the League of Nations that was based at Geneva or any individual State. To all intents and purposes, these Territories belong to the indigenous inhabitants and communities, which the League has set out to defend and on whose behalf it acts as a kind of family council". 110/

The view taken by the International Court of Justice in the question of the status of South-West Africa is that sovereignty was not transferred to the Mandatory Power:

> "The terms of this Mandate, as well as the provisions of Article 22 of the Covenant and the principles embodied therein, show that the creation of this new international institution [the Mandate] did not involve any cession of territory or transfer of sovereignty to the Union of South Africa. The Union Government was to exercise an international function of administration on behalf of the League, with the object of promoting the well-being and development of the inhabitants". 111/

According to Professor Quincy Wright:

> "Communities under 'A' Mandates doubtless approach very close to sovereignty". 112/

Since Palestine as an "A" Mandate whose sovereignty could not be alienated either by the Mandatory Power or by the League, it is of interest to glance briefly at the supervisory responsibility of the League of Nations, as exercised through the Permanent Mandates Commission (PMC), during the life of the Palestine Mandate.

In a report to the League Assembly the Council noted:

> "With regard to the responsibility of the League for securing the observance of the terms of the Mandates, the Council interprets its duties in this connection in the widest manner.

"Nevertheless the League will obviously have to display extreme prudence, so that the exercise of its rights of control should not in any way increase the difficulties of the task undertaken by the Mandatory Powers". 113/

In practice this meant that the PMC required annual reports from the Mandatory Power and offered comment on policies and developments in the mandated territory. Only when there was a major outbreak of violence, as in 1929 or in 1936, did the PMC exercise the functions in any wider manner.

In its very first meeting after the Palestine mandate came into effect in 1923, the PMC noted its sui generis nature and recorded its concern over its inherent contradictions, observing:

"Whereas all the other mandates the application of which it has hitherto examined were only intended to give effect to the general principles laid down in Article 22 of the Covenant, the Palestine Mandate is of a more complex nature. As is expressly stated in the preamble of the Mandate, and as is clearly shown by several of the clauses of this document, the Council, in drawing up its terms, desired, while giving effect to the provisions of Article 22 of the Covenant, to carry out also the plan of establishing in Palestine a national home for the Jewish people, as stated in the historic Declaration of 2 November, 1917, with which Lord Balfour's name is associated - a Declaration which the Principal Allied Powers adopted. According to the fundamental principle of Article 22 of the Covenant the paramount duty of the Mandatory Power is to ensure the development of the mandated territories by administering them in conformity with the interests of their inhabitants. On the other hand, in the terms of the Declaration of 2 November 1917, the Mandatory Power is instructed to assist the establishment in Palestine of a 'national home for the Jewish people ... it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by Jews in any other country'.

"It is not in any way for the Commission, whose duty it is, according to Article 22 of the Covenant, 'to advise the Council on all matters relating to the observance of the Mandate', to offer any observations whatever concerning the actual contents of the Mandates, the application of which it is called upon to examine, or to contrast the two principles which the Council sought to embody in the terms of the Mandate for Palestine. But, as this Mandate of necessity reflects the dual nature of its inspiration, and as its application has given rise to complaints by persons basing their case on one or other of these principles to the exclusion of the other, the Commission would not be fulfilling its task if it refrained from making any reference to the facts which have come to its notice in this connection ..." 114/

In the following years the reports from the Mandatory Power were treated in a routine fashion. In 1929, however, the PMC expressed sharp criticism of the Shaw report on the "disturbances" that year, expressing the opinion that the violence arose from direct opposition to British policies that the Palestinian Arabs considered as a denial of their inherent natural rights.

"The Mandates Commission considers that the Palestine disorders cannot justly be regarded as an unexpected disturbance in the midst of political calm, like those sudden explosions of popular passion which have so often been witnessed in the East. They were preceded during the last four months of 1928 and in the early part of 1929 by a number of premonitory incidents which were usually connected with the Wailing Wall ...

"The conclusion, that the outbreak was not directed against British authority, seems to be expressed too categorically.

"Doubtless the Arab attacks were directed only against the Jews, but the resentment which caused the Arabs to commit these excesses was ultimately due to political disappointments which they attributed to the parties concerned in the mandate, and primarily to the British Government. All the declarations by persons and organizations representing the Arab section tend to emphasize the fact that the Arab movement was a movement of resistance to the policy of the Mandatory Power solely in its capacity as mandatory. This has never been more clearly stated than in a letter from the Palestinian Arab delegation, and in a telegram from the Arab Executive, both received by the members of the Permanent Mandates Commission during the extraordinary session. The first reads as follows:

"We believe that the main cause of the disturbances which have led to continual bloodshed in Palestine for the last 12 years is the persistence of the British Government in depriving the Arabs of their natural rights. We feel that there can be no security in future against the recurrence of disturbances such as those which have taken place, or perhaps of an even more serious nature, unless the British Government promptly and radically changes its policies ..." 115/

Yet, paradoxically, the principle of self-determination was not upheld by the Commission. While it expressed understanding of the Palestinian desire for self-government, it warned that this was contrary to the terms of the Mandate, and that therefore the Commission could not support those aspirations:

"The claim for self-government is in no way surprising in a people who can watch the operation of representative institutions in some of its neighbours of the same race and civilization; it is an expression of a sentiment - pride of race - which certainly commands respect and can be justified to some extent by the terms of the Covenant and of the mandate itself. If those responsible for the agitation hoped by its means to secure the triumph of their opposition to the League of Nations as a party to the mandate, they will find no encouragement from the Mandates Commission ...

"To all the sections of the population which are rebelling against the mandate, whether they object to it on principle or wish to retain only those of its provisions which favour their particular cause, the Mandatory Power must obviously return a definite and categorical refusal. As long as the leaders of a community persist in repudiating what is at once the fundamental charter of the country and, as far as the Mandatory Power is concerned, an international obligation, which it is not free to set aside, the negotiations would only unduly enhance their prestige and raise dangerous hopes among their partisans and apprehensions amongst their opponents ... 116/

This session of the PMC had heard statements on the "dual obligation", asserting that:

> "... It was the duty of the Mandatory Power to establish the national Jewish home, and to develop self-governing institutions so far as was compatible with such establishment ..."

The view of the Chairman was:

> "... In considering the two parts of the mandate, it was necessary to bear in mind the fundamental principle of all the mandates. The purpose of the mandates as described in Article 22 of the Covenant was the development and welfare of the inhabitants of the mandated territory ... It was necessary to insist that the establishment of the national home for the Jews must be made compatible with the introduction of autonomous institutions. That was the Arab view and it was consistent with the fundamental purpose of the mandate ..." 117/

However in its report, the PMC made clear that in its view the dual obligations were of equal weight and were not irreconcilable.

(On this occasion, the League Council, on the request of the British Government, dispatched a League Commission to investigate Jewish and Muslim claims concerning the Wailing Wall. Their recommendations in 1931 in general confirmed the status quo and were implemented by the Palestine authorities.)

For the following five years the reports on the Palestine Mandate again received routine comments, until the outbreak of the Palestinian rebellion in 1936, when the League Council called the PMC to formulate a "Preliminary Opinion" on the Royal Commission's proposal for terminating the Palestine Mandate by partition rather than independence, a radical proposal with weighty implications for the Mandates system. The PMC elaborated on the contradictions inherent in the mandate, and the problems raised by the British proposal:

> "By these communications, the Permanent Mandates Commission was given a task that was entirely new to it. It was no longer a question of examining the annual reports of the Mandatories and advising the Council on all matters relating to the observance of the mandates, as its mission is defined in the Covenant itself; nor was it a duty such as that assigned to it by the Council in 1931, of determining whether a mandated territory had reached a degree of maturity justifying its emancipation.
>
> "The Commission's task today is to express a preliminary opinion on the intentions of a Mandatory Power which proposes to the Council the termination of the mandate it has been carrying out for 15 years, and which, in support of this proposal, adduces not so much the attainment of maturity by the ward as the difficulties of guardianship.
>
> "This opinion, it is true, was expressly requested by the Council and the Mandatory Power itself. But the Commission could not turn for guidance either to the mandate, which had been challenged, or to the Covenant, which is wholly silent on this subject.

"In the light of what principles, therefore, should it consider the question submitted to it? And, first of all, what exactly was that question itself? ...

"Although the question at issue was its revision, the Palestine mandate remained the centre of the whole of the deliberations. The mandate defines the obligations assumed by the Mandatory Power towards the League of Nations, on whose behalf the territory is administered. These obligations themselves are derived from the Balfour Declaration of 2 November 1917, and from the provisions of Article 22 of the Covenant, to which the United Kingdom Government, in accepting the mandate, undertook to give effect.

"The Commission has never imagined that the Mandatory Power might desire to withdraw from these obligations. The very idea of changing the existing régime was, in fact, the outcome of the difficulties experienced by the Mandatory in carrying out its obligations and of its desire to adapt its policy more closely to the requirements of its mission ...

"The first question to which the Commission has to give a reply to the Council is therefore that of the maintenance of the existing mandate. Although the obligations of the mandate have not appeared to be irreconcilable, the aspirations of Arabs and Jews in Palestine have constantly clashed ever since the mandate was established. What people could be expected to agree wholeheartedly that its country should be used for the establishment of a national home for another people, even if it were thereby to reap appreciable material benefits? And again, it is surprising that a people which, for nearly two thousand years, has been scattered over the face of the earth should have hastened to welcome an offer made to it to reconstruct a national home in the land of his forefathers, under the protection of a mighty empire? It was inevitable from the outset that there would be a conflict between the aspirations of the Arabs of Palestine, desirous of remaining or rather of becoming complete masters in their own house, and the Jews, desirous of constituting or rather reconstituting a national home in Palestine. The very wording of the Balfour Declaration and of the Palestine mandate clearly shows that this inevitable antagonism had been realised by the authors of those documents ...

"The disturbances of 1936 showed how widespread and intense was the hostility of the Arabs to Jewish immigration, and the repressive measures perforce taken by the mandatory Power only added to its doubts of the possibility of applying the mandate without resorting to the constant use of force." 118/

The Commission noted the repercussion of the Peel report on the mandate and expressed reservations on the partition proposal:

"The present mandate became almost unworkable once it was publicly declared to be so by a British Royal Commission speaking with the two-fold authority conferred on it by its impartiality and its unanimity, and by the Government of the Mandatory Power itself ...

"While declaring itself favourable in principle to an examination of a solution involving the partition of Palestine, the Commission is nevertheless opposed to the idea of the immediate creation of two new independent States ...

"The Commission therefore considers that a prolongation of the period of political apprenticeship constituted by the mandate would be absolutely essential both to the new Arab State and to the new Jewish State." 119/

The PMC proposed alternate forms of "apprenticeship", and the Council authorized Great Britain to prepare a partition plan for the League's consideration.

The situation remained fluid as the rebellion in Palestine continued, the PMC commenting in 1938:

"The Royal Commission considered that, during that period, the present mandate would continue to be the governing instrument of the administration of Palestine. In actual fact, however, the Mandates Commission cannot but recognize that the application of the mandate is partially suspended now, as events have prevented some of its essential objects from being pursued." 120/

The 1939 White Paper's reversal from immediate termination of the Mandate by partition to its prolongation with eventual independence for a united Palestine created a new situation for the PMC which, faced with fluctuations in British policy, was unable to make any definite recommendations:

"From the first, one fact forced itself to the notice of the Commission - namely, that the policy set out in the White Paper was not in accordance with the interpretation which, in agreement with the Mandatory Power and the Council, the Commission had always placed upon the Palestine mandate.

"In order to prove this, it will be enough to say that, only two years ago, the Government of the Mandatory Power declared, in the Statement of Policy which accompanied the report published by the Royal Commission, that the present mandate was unworkable. In view of this, the Mandates Commission communicated to the Council its opinion that a mandate which was declared unworkable by the Mandatory Power almost became so by that very fact.

"In 1937, there was already a conflict between Jewish and Arab aspirations, which the United Kingdom Government admitted its inability to reconcile; that conflict was the principal obstacle to Palestine's being administered in accordance with the mandate. Since that time, the conflict has become more and more intense. In 1937, the United Kingdom Government, feeling itself unable equitably to administer Palestine under the present mandate, believed that the possibility of so doing was to be found in a territorial partition for which no provision was made therein, while today it considers its new policy to be in accordance with the mandate. Does this not show that that instrument had at that time a different meaning in the eyes of the Mandatory Power than that which it has today?

"The Commission did not, however, confine itself to establishing this single fact. It went on to consider whether the Palestine mandate might not perhaps be open to a new interpretation which, while still respecting its main principles, would be sufficiently flexible for the policy of the White Paper not to appear at variance with it. The Commission was all the less reluctant to raise this question since, according to the Mandatory Power, no such contradiction existed. The Commission learned from the Secretary of State for the Colonies that the Mandatory Power considered, on the strength of the opinion expressed by its legal advisers that, in view of the changed

situation, the policy which it proposed to pursue was in agreement with the mandate, itself based on Article 22 of the Covenant and on the Balfour Declaration." 121/

There was no consensus in the PMC, but its comment that the 1939 White Paper was not in accordance with the accepted interpretation of the Mandate - with the establishment of the Jewish National Home as its principal objective - was further to complicate the controversy, though any further interest or activity by the League of Nations in the problem of Palestine was precluded by the outbreak of war in September 1939.

IX. THE ENDING OF THE MANDATE

Palestine in 1939

By 1939 the situation in Palestine had reached a crucial point. The Royal Commission had declared the Mandate unworkable. The Commission's own partition proposals had proved equally unworkable. The 1939 White Paper had postulated an independent unified Palestine, with a Palestinian Arab majority, in 10 years, but the League of Nations had expressed reservations on this new policy declaration. Yet the League itself had proved incapable of playing any effective role in arresting the deteriorating situation in Palestine. The Palestinians had sensed that only through violence could they force recognition of their inherent rights. The Zionists in turn had reacted with violence to hold the ground they had gained and to press towards their ultimate aspirations of a Jewish State in Palestine. The monstrous Nazi crimes against the Jewish people led them to look to the "national home" in Palestine as a refuge. The Second World War was to act as a catalyst in the interplay of these forces, and the pace of events accelerated.

Shortly before the war broke out, both the Jewish Agency as well as Palestinian Arab leaders declared their support of the Allies. The Mufti, still in exile, eventually aligned himself with the Axis powers. Violence subsided as the leaders of both sides observed a political truce. Jewish and Arab battalions were formed in Palestine, the Jewish units ultimately forming a Jewish Brigade.

The implementation of the 1939 White Paper

Despite the demands of the war effort, the British Government, disturbed by the dangerous situation in Palestine, proceeded with the policy of the 1939 White Paper in an effort to diminish the political tension. In February 1940, the Palestine authorities issued the Land Transfer regulations, dividing Palestine into three zones. In the largest zone, any transfer of land to a person who was not a "Palestinian Arab" was prohibited, exceptions being permitted only under specific conditions and with the High Commissioner's permission. In the second zone "Palestinian Arabs" were permitted to transfer land only between themselves. In the third zone there were not restrictions on land transfers.

The clauses of the 1939 White Paper relating to immigration were also implemented, but at the end of the five-year period in 1944, only 51,000 of the 75,000 immigration certificates provided for had been utilized. In circumstances where Jewish refugees from Europe were fleeing violence and persecution, the White Paper's limits were relaxed and legal immigration was permitted to continue indefinitely at the rate of 18,000 a year.

The Jewish response

The Palestinian rebellion, the Royal Commission's report and the 1939 White Paper's policies constituted a series of reversals to the aim of political Zionism to establish a settler state in Palestine. It had become evident that the Mandatory Power was re-interpreting its earlier commitment to the Balfour Declaration. Three features of the response by some Zionist groups were illegal immigration, terrorism and an attempt to obtain support from the United States.

Illegal immigration was not a wartime phenomenon. The Hope-Simpson Report of 1930 had recorded that "some thousands each year" of unauthorized immigrants settled in Palestine, either having evaded frontier controls or having arrived as "pseudo travellers" and then staying on. 122/ This type of immigration was bound to increase with the conditions prevailing in Europe, and it is estimated that between April 1939 and December 1943, over 20,000 illegal immigrants arrived in Palestine. 123/ The conditions under which this immigration was swelling were politically exploited by Jewish organizations to exert pressure on the British Government, as described in an official document:

> "The regulation of Jewish immigration into Palestine has been greatly complicated, since before the outbreak of war, by attempts to organize the unauthorized entry of large bodies of immigrants. During the war it was more than ever imperative that the Administration should resist this threat to its authority, since the shiploads of refugees came from inside Axis-controlled Europe and offered an opportunity for the infiltration of enemy agents. In November 1940, it was decided that illegal immigrants would be deported to an alternative place of refuge in the Colonial Empire. The first contingent of deportees under this policy was assembled on board the s.s. Patria in Haifa Harbour. The Patria, however, was scuttled at her moorings on 25 November, as a result of sabotage by Jewish sympathizers ashore, with the loss of 252 lives. Numbers of illegal immigrants were subsequently deported to Mauritius; they were admitted to Palestine in 1945 and an equivalent number was deducted from the quota provided for in the White Paper". 124/

The Jewish immigrants claimed to have practised often the doctrine of Havlaga, or restraint and non-violence, in the face of the various uprisings by Palestinian Arabs, culminating in the rebellion. During the war years, the Jewish community also resorted to violence. The recourse to terrorism is described in an official British document as follows:

> "The lull in terrorist activity did not continue throughout the war years. The Jewish community resented the Land Transfers Regulations and the measures taken against unauthorized immigration. In 1942, a small group of Zionist extremists, led by Abraham Stern, came into prominence with a series of politically motivated murders and robberies in the Tel Aviv area. In the following year there came to light a widespread conspiracy, connected with Haganah (an illegal military formation controlled by the Jewish Agency), for stealing arms and ammunition from the British forces in the Middle East. In August 1944, the High Commissioner narrowly escaped death in an ambush outside Jerusalem. Three months later, on the 6th November, the British Minister of State in the Middle East (Lord Moyne) was assassinated in Cairo by two members of the Stern group. A third illegal Jewish organization, the Irgun Tzeva'i Leumi, was responsible for much destruction of Government property during 1944. The outrages perpetrated by the Stern group and the Irgun Zvei Leumi were condemned by the official spokesmen of the Jewish community ...
>
> "On the 22nd July 1946, the campaign conducted by terrorist organizations reached a new climax with an explosion which wrecked a wing of the King David Hotel in Jerusalem, containing the offices of the Government Secretariat as well as part of military headquarters, and killed 86 public servants, Arab, Jewish and British, as well as five members of the public. Later terrorist activities have included the kidnapping of a British judge and of British

officers, sabotage of the railway system and of oil installations at Haifa, and the blowing up of a British Officers' Club in Jerusalem with considerable loss of life. In order that the administration of the country might proceed unhampered by terrorist reprisals against the British community as threatened, non-essential British civilians and military families were evacuated from Palestine and the remaining members of the British community were concentrated in security zones at the beginning of February 1947. In the same month 'statutory martial law' was imposed for a limited period (in specified areas) ..." 125/

Notwithstanding formal disclaimers of its responsibility, there appears to be some evidence of involvement of the Jewish Agency, as indicated in an official report:

"The information which was in the possession of His Majesty's Government when they undertook their recent action in Palestine led them to draw the following conclusions:

(1) That the Haganah and its associated force the Palmach (working under the political control of prominent members of the Jewish Agency) have been engaging in carefully planned movements of sabotage and violence under the guise of 'the Jewish Resistance Movement';

(2) That the Irgun Tzeva'i Leumi and the Stern Group have worked since last autumn in co-operation with the Haganah High Command on certain of these operations ...

(3) That the broadcasting station 'Kol Israel' which claims to be "the Voice of the Resistance Movement" and which has been working under the general direction of the Jewish Agency has been supporting these organizations." 126/

This campaign of terror against Palestinian Arabs and the British reached such proportions that Churchill, a strong supporter of Zionist aims and at that time Prime Minister, stated in the House of Commons:

"If our dreams for zionism are to end in the smoke of assassins' pistols and our labours for its future are to produce a new set of gangsters worthy of Nazi Germany, many like myself will have to reconsider the position we have maintained so consistently and so long in the past. If there is to be any hope of a peaceful and successful future for zionism, these wicked activities must cease and those responsible for them must be destroyed, root and branch ...

Referring to the appeal of the Jewish Agency to the Jewish community '... to cast out the members of this destructive band, to deprive them of all refuge and shelter, to resist their threats and to render all necessary assistance to the authorities in the prevention of terrorist acts and in the eradication of the terrorist organization', he said:

"These are strong words but we must wait for these words to be translated into deeds. We must wait to see that not only the leaders but every man, woman and child of the Jewish community does his or her best to bring this terrorism to a speedy end." 127/

The "Biltmore Programme"

The Zionist Organization sought to strengthen its position by drawing support from the United States to substitute for that loss from Great Britain. In May 1942 the Jewish Agency Executive, meeting in New York, formally made public in what is known as the "Biltmore Programme", the long-standing aim of the creation of a Jewish State in Palestine through unlimited immigration, declaring that:

> "The Conference affirms its unalterable rejection of the White Paper of May 1939 and denies its moral or legal validity. The White Paper seeks to limit, and in fact to nullify Jewish rights to immigration and settlement in Palestine, and, as stated by Mr. Winston Churchill in the House of Commons in May 1939, constitutes "a breach and repudiation of the Balfour Declaration ...
>
> "The Conference urges that the gates of Palestine be opened; that the Jewish Agency be vested with control of immigration into Palestine and with the necessary authority for upbuilding the country, including the development of its unoccupied and uncultivated lands; and that Palestine be established as a Jewish Commonwealth integrated in the structure of the new democratic world ..." 128/

The Jewish Agency formally presented its demands to the British Government in May 1945 as follows:

> "(1) That an immediate decision be announced to establish Palestine as a Jewish State.
>
> "(2) That the Jewish Agency be invested with all necessary authority to bring to Palestine as many Jews as it may be found necessary and possible to settle, and to develop, fully and speedily, all the resources of the country - especially land and power resources.
>
> "(3) That an international loan and other help be given for the transfer of the first million of Jews to Palestine, and for the economic development of the country.
>
> "(4) That reparations in kind from Germany be granted to the Jewish people for the rebuilding of Palestine, and - as a first instalment - that all German property in Palestine be used for the resettlement of Jews from Europe.
>
> "(5) That international facilities be provided for the exit and transit of all Jews who wish to settle in Palestine." 129/

The Zionist Organization formally endorsed the programme as its declared policy and concentrated its efforts in the United States:

> "By November 1945, however, a new chapter in the history of Palestine was about to open. Zionist pressure in the United States, which the Government of that country had resisted during the course of the war, again made itself felt on the restoration of peace, taking as its text reports of American Congressmen ... on the plight of Jews in camps for displaced persons.
>
> "President Truman responded to it in a letter to Mr. Attlee, in which he called on the British Government to open the gates of Palestine to an additional 100,000 of the homeless Jews in Europe." 130/

As the war ended, the outcome of United States involvement was the appointment of an Anglo-American Committee of Enquiry to make recommendations on Palestine to both Governments. The Foreign Secretary of the new Labour Government in Great Britain, prevented by circumstance from implementing the 1939 White Paper, and faced with a situation where the League of Nations had been extinguished by the war, and succeeded by the United Nations, indicated future policy on the following lines:

> "His Majesty's Government cannot divest themselves of their duties and responsibilities under the Mandate while the Mandate continues ... that is, until arrangements can be made - arrangements which it is hoped will be facilitated by the Report of the Committee of Enquiry - for placing Palestine under Trusteeship. The British Government ... will prepare a permanent solution for submission to the United Nations and, if possible, an agreed one." 131/

The Anglo-American Enquiry Committee

The 12-member Committee began work in January 1946 with a 120-day time-limit and finalized its report in April. As in the case of previous British Commissions, it surveyed the history of Palestine over the years since the Balfour Declaration, but concluded with a set of recommendations that virtually negated those by the British Commission.

Describing the Jewish view, the report observed:

> "The Jews in Palestine are convinced that Arab violence paid. Throughout the Arab rising, the Jews in the national home, despite every provocation, obeyed the orders of their leaders and exercised a remarkable self-discipline. They shot, but only in self-defence; they rarely took reprisals on the Arab population. They state bitterly that the reward for this restraint was the Conference and the White Paper of 1939 ...
>
> "An immediate result of the success of Arab terrorism was the beginning of Jewish terrorism and, even more significant, a closing of the ranks, a tightening of the discipline, and a general militarization of Jewish life in Palestine. The Agency became the political headquarters of a citizen army which felt that at any moment it might have to fight for its very existence. Deprived, as he believed, both of his natural and of his legal rights, the Palestinian Jews began to lose faith in the Mandatory Power. The dangerous belief was spread that not patience but violence was needed to achieve justice. The position of the moderates who urged self-restraint and a reliance on Britain's pledged word was progressively undermined; the position of the extremists, eager to borrow a leaf from the Arab copy book, was progressively strengthened ... 132/
>
> "The State within the State:
>
> "The Jews have developed under the aegis of the Jewish Agency and the Vaad Leumi, a strong and tightly-woven community. There thus exists a virtual Jewish non-territorial State with its own executive and legislative organs, paralleled in many respects to the Mandatory Administration, and serving as the concrete symbol of the Jewish National Home. This Jewish shadow government has ceased to co-operate with the Administration in the maintenance of law and order, and in the suppression of terrorism ..." 133/

"A sinister aspect of recent years is the development of large illegal armed forces. The following is the structure as stated to us by the military authorities.

"The general organization is the 'Haganah'. It is an illegal development of the former organization, in the days of Turkish rule, of armed watchmen who protected Jewish settlements. Today, it is completely organized, under a central control and with subsidiary territorial commands, in three branches, each of which includes women, viz:

. "A static force composed of settlers and townfolk, with an estimated strength of 40,000;

. "A field army, based on the Jewish Settlement Police and trained in more mobile operations, with an estimated strength of 16,000;

. "A full-time force (Palmach), permanently mobilized and provided with transport, with an estimated peace establishment of 2,000 and war establishment of some 6,000.

"It is known that the Haganah has been procuring arms over a period of years. Vast quantities have been obtained from the residue of the campaigns in the Middle East. Arms and ammunition are kept and concealed in specially constructed caches in settlements and towns ...

"Apart from the Haganah, two further illegal armed organizations exist, both having cut away from the parent body. One is the 'Irgun Tzeva'i Leumi', which was formed in 1935 by dissident members of the Haganah. The other is the 'Stern Group' which broke away from the Irgun early in the war when the latter announced an 'armistice'. The Irgun operated under its own secret command mainly in sabotage and terrorism against the Mandatory; its strength is estimated at from 3,000 to 5,000. The Stern Group engages in terrorism; its strength is said to be between 200 and 300 ... (The British Government commented that these estimates were 'on the conservative side'.)

"All three organizations to which reference has been made are illegal ..." 134/

The Palestinian Arab view was summed up as follows:

"... Stripped to the bare essentials, the Arab case is based upon the fact that Palestine is a country which the Arabs have occupied for more than a thousand years, and a denial of the Jewish historical claims to Palestine. In issuing the Balfour Declaration, the Arabs maintain, the British Government were giving away something that did not belong to Britain, and they have consistently argued that the Mandate conflicted with the Covenant of the League of Nations from which it derived its authority. The Arabs deny that the part played by the British in freeing them from the Turks gave Great Britain a right to dispose of their country. Indeed, they assert that Turkish was preferable to British rule, if the latter involves their eventual subjection to the Jews. They consider the Mandate a violation of their right of self-determination since it is forcing upon them an immigration which they do not desire and will not tolerate - an invasion of Palestine by the Jews ...

"The suggestion that self-government should be withheld from Palestine until the Jews have acquired a majority seems outrageous to the Arabs. They wish to be masters in their own house. The Arabs were opposed to the idea of a Jewish national home even before the Balfour Programme and the demand for a Jewish State. Needless to say, however, their opposition has become more intense and more bitter since that programme was adopted ..." 135/

The Anglo-American Committee rejected the idea of early independence for Palestine, whether partitioned or unified, considering that Palestinian Arab-Jewish hostility "would result in civil strife as might threaten the peace of the world" ... The Committee appeared to anticipate that the hostility would eventually disappear (it did not elaborate how this would happen) and that until such time Palestine should become a United Nations trusteeship, pending which the Mandate should continue. It also appeared to anticipate that unity would somehow be maintained and recommended a declaration:

"That Jews shall not dominate Arab and Arab shall not dominate Jew in Palestine; that Palestine shall be neither a Jewish State nor an Arab State". 136/

and that the future government would be internationally guaranteed.

Among immediate measures the Committee recommended the rescinding of the 1940 Land Transfer Regulations so as to allow free transfers of land, and the immediate issue of 100,000 immigration certificates to the victims of Nazi persecution. It also recommended a declaration that terrorism would be suppressed, and called on the Jewish Agency to co-operate with the authorities to this end.

In effect the Committee recommended the continuation of a Mandate that the Mandatory Power had found unworkable. Immediately on publication of the Committee's report, the United States President issued a statement in which, inter alia, he said:

"I am very happy that the request which I made for the immediate admission of 100,000 Jews into Palestine has been unanimously endorsed by the Anglo-American Committee of Inquiry. The transference of these unfortunate people should now be accomplished with the greatest despatch ... I am also pleased that the Committee recommends in effect the abrogation of the White Paper of 1939 including existing restrictions on immigration and land acquisition to permit the further development of the Jewish national home. It is also gratifying that the report envisages the carrying out of large scale economic development projects in Palestine which would facilitate further immigration and be of benefit to the entire population. In addition to those immediate objectives, the report deals with many other questions of long-range political policies and questions of international law which require careful study and which I will take under advisement". 137/

However, the British Government stated that it could not accept the Committee's recommendations immediately, and they would be examined further. In the course of this examination by British and American officials, a scheme was produced for two autonomous provinces in a Palestine that continued to be governed under a British High Commissioner. This scheme received the approval of the British Government, but not of the United States Government, and the issue remained unresolved.

Both Governments then requested the views of the independent Arab Governments which, in the meantime, had formed the Arab League in March 1945, envisioning the future membership of an eventually independent Palestine. Since the Palestinian Arabs could not present their own views, the Arab Governments actively advocated their case, and obtained assurances from the United States Government of consultation on any formula for Palestine. They now proposed a conference to discuss the Palestine problem.

The London Conference

The new London Conference met from September 1946 to February 1947, starting in the absence of representatives of either the Palestinian Arabs or Jews both of whom had refused the invitation. The Arab countries attending opposed the provincial scheme, and presented to the British Government their own proposals, with the following principal features:

(a) Palestine would be a unitary State with a permanent Arab majority, and would attain its independence as such after a short period of transition (two or three years) under British Mandate;

(b) Within this unitary State, Jews who had acquired Palestinian citizenship (for which the qualification would be 10 years' residence in the country) would have full civil rights, equally with all other citizens of Palestine;

(c) Special safeguards would be provided to protect the religious and cultural rights of the Jewish community;

(d) The Jewish community would be entitled to a number of seats in the Legislative Assembly proportionate to the number of Jewish citizens (as defined) in Palestine, subject to the proviso that in no case would the number of Jewish representatives exceed one third of the total number of members;

(e) All legislation concerning immigration and the transfer of land would require the consent of the Arabs in Palestine as expressed by a majority of the Arab members of the Legislative Assembly; and the safeguards provided for the Jewish community would be alterable only with the consent of a majority of the Jewish members of the Legislative Assembly". 138/

On its side the Zionist Congress, meeting in Basle in 1947 five decades after the Basle Declaration, rejected the provincial autonomy scheme as "a travesty of Britain's obligation under the Mandate", also rejecting any form of trusteeship and demanding:

"(a) That Palestine be established as a Jewish Commonwealth integrated in the structure of the democratic world;

"(b) That the gates of Palestine be opened to Jewish immigration;

"(c) That the Jewish Agency be vested with the control of immigration into Palestine and with the necessary authority for the upbuilding of the country". 139/

In February 1947, the British Government then presented its own proposals to the Arab representatives, by then joined by representatives of the Palestinian Arab

Higher Executive, and to the Jewish Agency, which had entered into unofficial negotiations with the British Government. Both sides rejected the proposals. The Zionist Organization, fortified by new large-scale immigration, legal and illegal, well equipped forces, with the Jewish Brigade providing the nucleus, and powerful foreign support, was unprepared to compromise on its long-standing objective towards which it had advanced so close - a Jewish State in Palestine. The Palestinian Arabs, with the support of other Arab peoples, were determined to guard and hold their country, and to prevent it from being dominated further by continued Jewish immigration. The impasse was total, and large-scale violence was imminent in Palestine.

Faced with this situation, Great Britain decided to relinquish its mandatory role and to hand over the Palestine problem, created over three decades by the Balfour Declaration and the Palestine Mandate, to the United Nations. On 18 February 1947, the Foreign Secretary stated in the House of Commons:

> "His Majesty's Government have ... been faced with an irreconcilable conflict of principles. There are in Palestine about 1,200,000 Arabs and 600,000 Jews. For the Jews, the essential point of principle is the creation of a sovereign Jewish State. For the Arabs, the essential point of principle is to resist to the last the establishment of Jewish sovereignty in any part of Palestine. The discussions of the last month have quite clearly shown that there is no prospect of resolving this conflict by any settlement negotiated between the parties. But if the conflict has to be resolved by an arbitrary decision, that is not a decision which His Majesty's Government are empowered, as "Mandatory", to take. His Majesty's Government have of themselves no power, under the terms of the Mandate, to award the country either to the Arabs or to the Jews, or even to partition it between them.
>
> "It is in these circumstances that we have decided that we are unable to accept the scheme put forward either by the Arabs or by the Jews, or to impose ourselves a solution of our own. We have, therefore, reached the conclusion that the only course now open to us is to submit the problem to the judgement of the United Nations. We intend to place before them an historical account of the way in which His Majesty's Government have discharged their trust in Palestine over the last 25 years. We shall explain that the Mandate has proved to be unworkable in practice, and that the obligations undertaken by the two communities in Palestine have been shown to be irreconcilable. We shall describe the various proposals which have been put forward for dealing with the situation, namely, the Arab Plan, the Zionists' aspirations, so far as we have been able to ascertain them, the proposals of the Anglo-American Committee and the various proposals which we ourselves have put forward. We shall then ask the United Nations to consider our report, and to recommend a settlement of the problem. We do not intend ourselves to recommend any particular solution". 140/

The transformation of Mandated Palestine

At the culmination of a quarter century of Mandatory rule, Palestine had been radically transformed in demographic terms. The population of Palestine had increased tremendously - from the 750,000 of the 1922 census to almost 1,850,000 at the end of 1946 - an increase of nearly 250 per cent. During this period the Jewish population had soared from 56,000 after the First World War to 84,000 in 1922 to 608,000 in 1946, an increase of about 725 per cent. 141/ From constituting

less than a tenth of the population in Palestine after the First World War, the Jewish community in 1947 constituted nearly a third. A good part of this was due to births within Palestine but legal immigration alone accounted for over 376,000, with illegal immigration being estimated at another 65,000 - a total of 440,000. 142/ This Jewish population was primarily urban - about 70 per cent to 75 per cent in and around the cities of Jerusalem, Jaffa-Tel Aviv and Haifa. 143/

Land holding patterns had also changed considerably. From the 650,000 dunums held by Jewish organizations in 1920, of the total land area of 26 million dunums, the figure at the end of 1946 had reached 1,625,000 dunums - an increase of about 250 per cent 144/ and Jewish settlement had displaced large numbers of Palestinian Arab peasants. Even so, this area represented only 6.2 per cent of the total area of Palestine and 12 per cent of the cultivable land. 145/

Ironically, the Palestinian Arabs were to suffer an experience similar to the Jews - a diaspora. That the Jews deserved sympathy was unquestionable. Even before the Nazi terror, this sympathy existed for the Jewish people among the Palestinian Arabs. The absence of racial rancour before the Balfour Declaration received emphasis in virtually every official report. Even as late as 1937, during the Palestinian rebellion for independence, the Royal Commission on Palestine said:

> "An able Arab exponent of the Arab case told us that the Arabs throughout their history have not only been free from anti-Jewish sentiment but have also shown that the spirit of compromise is deeply rooted in their life. There is no decent-minded person, he said, who would not want to do everything humanly possible to relieve the distress of those persons, provided that it was not at the cost of inflicting a corresponding distress on another people." 146/

Arnold J. Toynbee who, before becoming recognized as an eminent world historian had dealt directly with the Palestine Mandate in the British Foreign Office, wrote in 1968:

> "All through those 30 years, Britain (admitted) into Palestine, year by year, a quota of Jewish immigrants that varied according to the strength of the respective pressures of the Arabs and Jews at the time. These immigrants could not have come in if they had not been shielded by a British chevaux-de-frise. If Palestine had remained under Ottoman Turkish rule, or if it had become an independent Arab state in 1918, Jewish immigrants would never have been admitted into Palestine in large enough numbers to enable them to overwhelm the Palestinian Arabs in this Arab people's own country. The reason why the State of Israel exists today and why today 1,500,000 Palestinian Arabs are refugees is that, for 30 years, Jewish immigration was imposed on the Palestinian Arabs by British military power until the immigrants were sufficiently numerous and sufficiently well-armed to be able to fend for themselves with tanks and planes of their own. The tragedy in Palestine is not just a local one; it is a tragedy for the world, because it is an injustice that is a menace to the world's peace." 147/

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However, it is evident that this later correspondence was not official, and the opinion of the United Nations Special Committee on Palestine is conclusive:

> "The Feisal-Weizmann agreement did not acquire validity, since the condition attached (i.e. Arab independence) was not fulfilled at the time". United Nations document A/364, report of the Special Committee on Palestine to the General Assembly, 3 September 1947, p. 35).

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ANNEX I

The Sykes-Picot Agreement of 16 May 1916

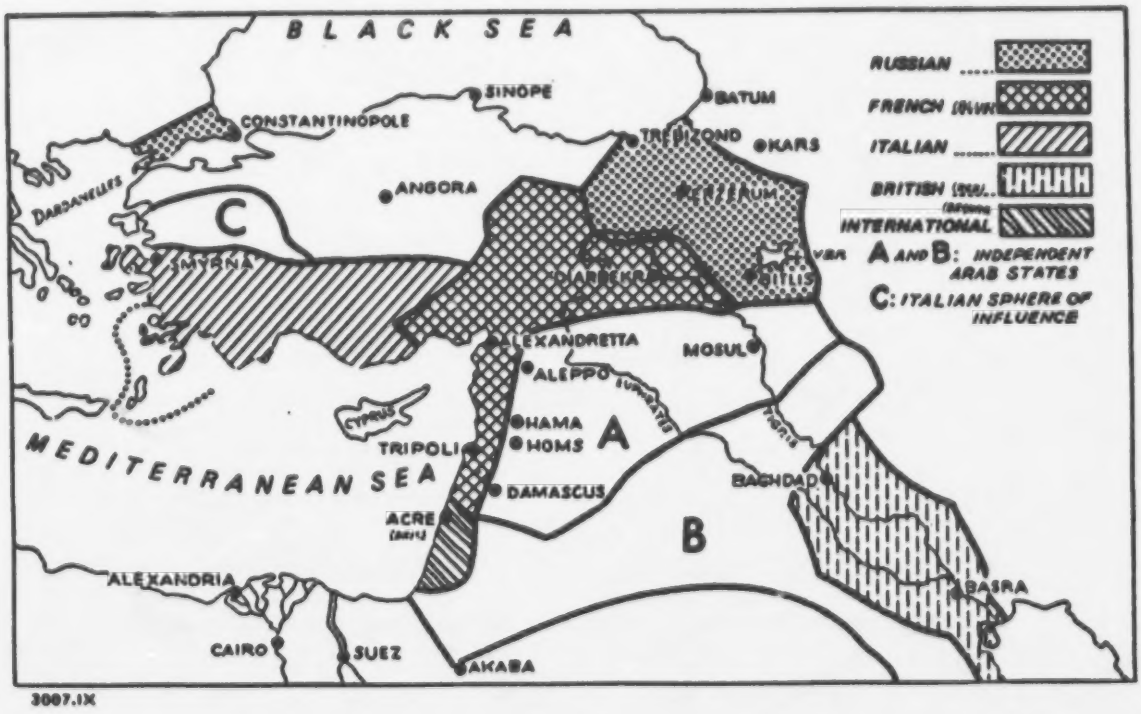
(Extract)

"It is accordingly understood between the French and British Governments -

1. That France and Great Britain are prepared to recognize and protect an independent Arab State or a Confederation of Arab States in the areas (A) and (B) marked on the annexed map, under the suzerainty of an Arab chief. That in area (A) France, and area (B) Great Britain, shall have priority of right of enterprise and local loans. That in area (A) France, and in area (B) Great Britain, shall alone supply advisers or foreign functionaries at the request of the Arab State or Confederation of Arab States.

2. That in the blue area France, and the red area Great Britain, shall be allowed to establish such direct or indirect administration or control as they desire and as they may think fit to arrange with the Arab State or Confederation of Arab States.

3. That in the brown area there shall be established in an international administration, the form of which is to be decided upon after consultation with Russia, and subsequently in consultation with the other Allies, and the representatives of the Shereef of Mecca."



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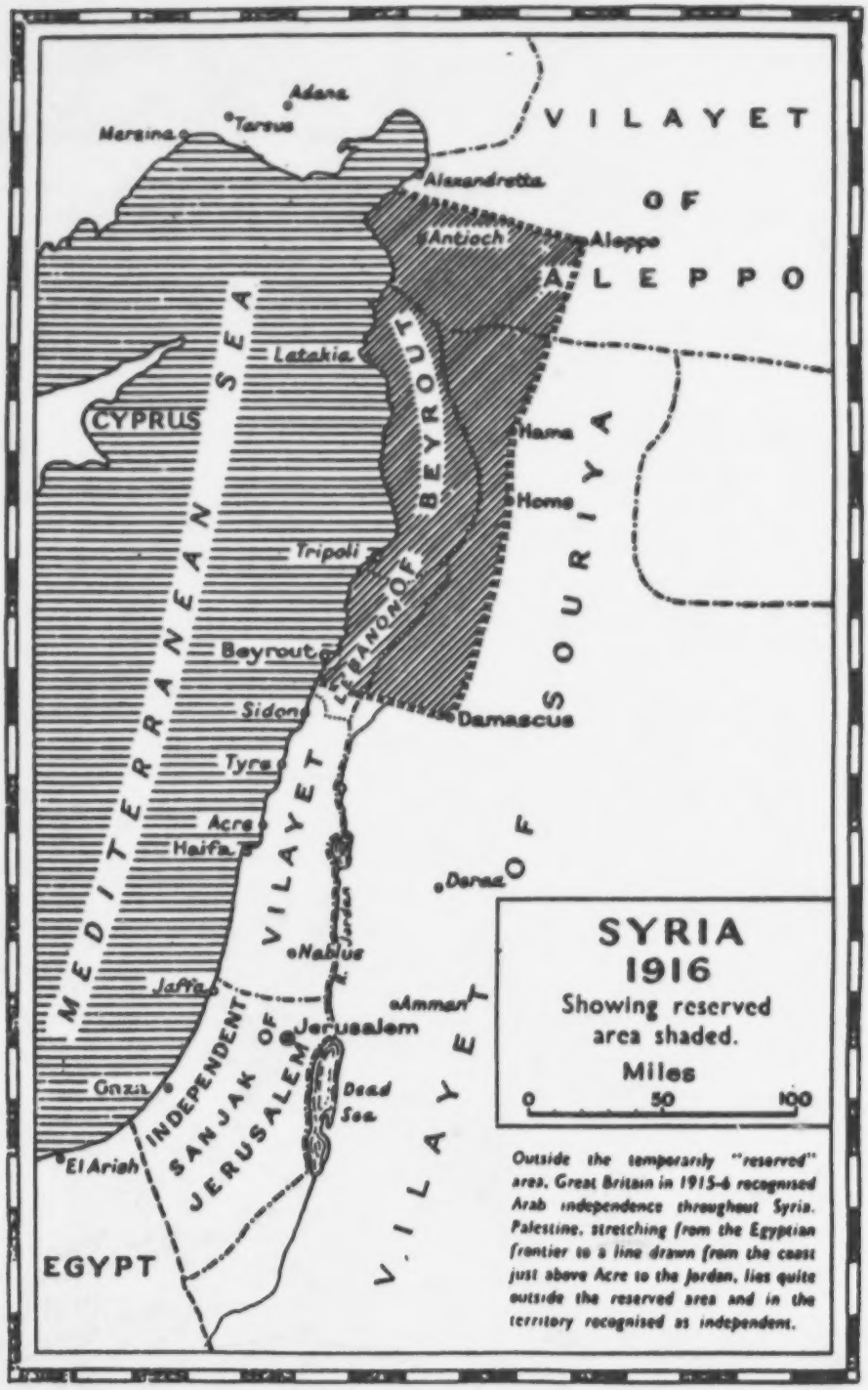
ANNEX II



The areas "reserved" under the Hussein-McMahon correspondence.

(Source: Jeffries: Palestine - The Reality)

ANNEX III

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PALESTINE AND SYRIA IN 1915
(Showing Ottoman administrative units)

(Based on map in Cmd. 5957, 1939)

ANNEX IV

Article 22 of the Covenant of the League of Nations, 28 June 1919

Article 22. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the formance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above-mentioned in the interests of the indigenous population.

In every case of Mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

ANNEX V

The Mandate for Palestine, 24 July 1922

"The Council of the League of Nations:

Whereas the Principal Allied Powers have agreed, for the purpose of giving effect to the provisions of Article 22 of the Covenant of the League of Nations, to entrust to a Mandatory selected by the said Powers the administration of the territory of Palestine, which formerly belonged to the Turkish Empire, within such boundaries as may be fixed by them; and

Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2nd, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favour of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country; and

Whereas recognition has thereby been given to the historical connexion of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as the Mandatory for Palestine; and

Whereas the mandate in respect of Palestine has been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions; and

Whereas by the aforementioned Article 22 (paragraph 8), it is provided that the degree of authority, control or administration to be exercised by the Mandatory, not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations;

Confirming the said Mandate, defines its terms as follows:

Article 1

The Mandatory shall have full powers of legislation and of administration, save as they may be limited by the terms of this mandate.

Article 2

The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.

Article 3

The Mandatory shall, so far as circumstances permit, encourage local autonomy.

Article 4

An appropriate Jewish agency shall be recognized as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

The Zionist Organization, so long as its organization and constitution are in the opinion of the Mandatory appropriate, shall be recognized as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

Article 5

The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of, the Government of any foreign Power.

Article 6

The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in Article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

Article 7

The Administration of Palestine shall be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.

Article 8

The privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire shall not be applicable in Palestine.

Unless the Powers whose nationals enjoyed the aforementioned privileges and immunities on August 1st, 1914, shall have previously renounced the right to their re-establishment, or shall have agreed to their non-application for a specified period, these privileges and immunities shall, at the expiration of the mandate, be immediately re-established in their entirety or with such modifications as may have been agreed upon between the Powers concerned.

Article 9

The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall assure to foreigners, as well as to natives, a complete guarantee of their rights.

Respect for the personal status of the various peoples and communities and for their religious interests shall be fully guaranteed. In particular, the control and administration of Waqfs shall be exercised in accordance with religious law and the dispositions of the founders.

Article 10

Pending the making of special extradition agreements relating to Palestine, the extradition treaties in force between the Mandatory and other foreign Powers shall apply to Palestine.

Article 11

The Administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country, and, subject to any international obligations accepted by the Mandatory, shall have full powers to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established therein. It shall introduce a land system appropriate to the needs of the country having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

The Administration may arrange with the Jewish agency mentioned in Article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the Administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilized by it for the benefit of the country in a manner approved by the Administration.

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Article 12

The Mandatory shall be entrusted with the control of the foreign relations of Palestine, and the right to issue exequaturs to consuls appointed by foreign Powers. He shall also be entitled to afford diplomatic and consular protection to citizens of Palestine when outside its territorial limits.

Article 13

All responsibility in connexion with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights and of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who shall be responsible solely to the League of Nations in all matters connected herewith, provided that nothing in this article shall prevent the Mandatory from entering into such arrangements as he may deem reasonable with the Administration for the purpose of carrying the provisions of this article into effect; and provided also that nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed.

Article 14

A special Commission shall be appointed by the Mandatory to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine. The method of nomination, the composition and the functions of this Commission shall be submitted to the Council of the League for its approval, and the Commission shall not be appointed or enter upon its functions without the approval of the Council.

Article 15

The Mandatory shall see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, are ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the Administration may impose, shall not be denied or impaired.

Article 16

The Mandatory shall be responsible for exercising such supervision over religious or eleemosynary bodies of all faiths in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Palestine to obstruct or interfere with the

enterprise of such bodies or to discriminate against any representative or member of them on the ground of his religion or nationality.

Article 17

The Administration of Palestine may organize on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, but shall not use them for purposes other than those above specified save with the consent of the Mandatory. Except for such purposes, no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

Nothing in this article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of the forces of the Mandatory in Palestine.

The Mandatory shall be entitled at all times to use the roads, railways and ports of Palestine for the movement of armed forces and the carriage of fuel and supplies.

Article 18

The Mandatory shall see that there is no discrimination in Palestine against the nationals of any State Member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this mandate, the Administration of Palestine may, on the advice of the Mandatory, impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population. It may also, on the advice of the Mandatory, conclude a special customs agreement with any State territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

Article 19

The Mandatory shall adhere on behalf of the Administration of Palestine to any general international conventions already existing, or which may be concluded hereafter with the approval of the League of Nations, respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

Article 20

The Mandatory shall co-operate on behalf of the Administration of Palestine, so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

Article 21

The Mandatory shall secure the enactment within twelve months from this date, and shall ensure the execution of a Law of Antiquities based on the following rules. This law shall ensure equality of treatment in the matter of excavations and archaeological research to the nationals of all States Members of the League of Nations ...

Article 22

English, Arabic and Hebrew shall be the official languages of Palestine. Any statement or inscription in Arabic on stamps or money in Palestine shall be repeated in Hebrew and any statement or inscription in Hebrew shall be repeated in Arabic.

Article 23

The Administration of Palestine shall recognize the holy days of the respective communities in Palestine as legal days of rest for the members of such communities.

Article 24

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council as to the measures taken during the year to carry out the provisions of the mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

Article 25

In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled, with the consent of the Council of the League of Nations, to postpone or withhold application of such provisions of this mandate as he may consider inapplicable to the existing local conditions, and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided that no action shall be taken which is inconsistent with the provisions of Articles 15, 16 and 18.

Article 26

The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

Article 27

The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

Article 28

In the event of the termination of the mandate hereby conferred upon the Mandatory, the Council of the League of Nations shall make such arrangements as may be deemed necessary for safeguarding in perpetuity, under guarantee of the League, the rights secured by Articles 13 and 14, and shall use its influence for securing, under the guarantee of the League, that the Government of Palestine will fully honour the financial obligations legitimately incurred by the Administration of Palestine during the period of the mandate, including the rights of public servants to pensions or gratuities.

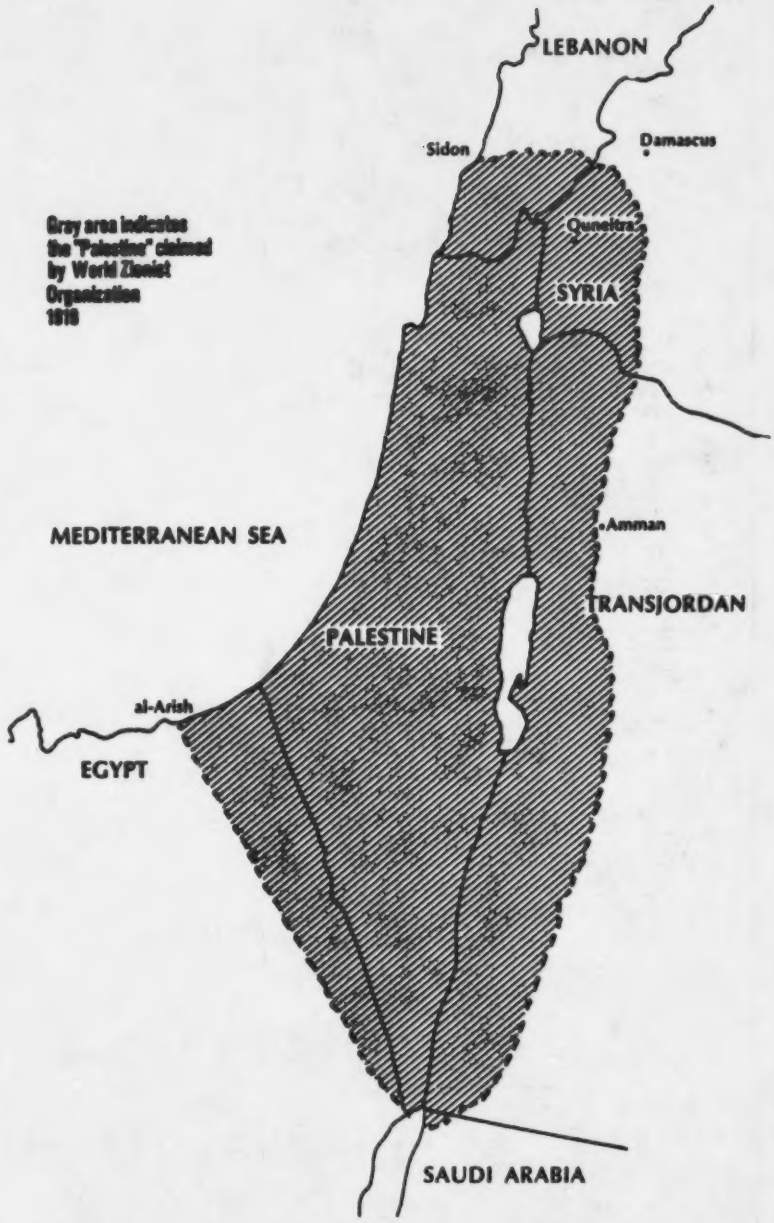
The present instrument shall be deposited in original in the archives of the League of Nations and certified copies shall be forwarded by the Secretary-General of the League of Nations to all Members of the League.

DONE AT LONDON the twenty-fourth day of July, one thousand nine hundred and twenty-two." 1/

1/ The Palestine mandate came into force on 29 September 1922.

READEX FICHE

ANNEX VI



"Palestine" claimed by World Zionist Organization, 1919

(Source: Alan R. Taylor, in Abu-Lughod, The Transformation of Palestine)

ANNEX VII

PALESTINE PARTITION PLAN A, 1938

(Royal Commission's Partition Plan, 1937, as elaborated by Palestine Partition Commission, 1938

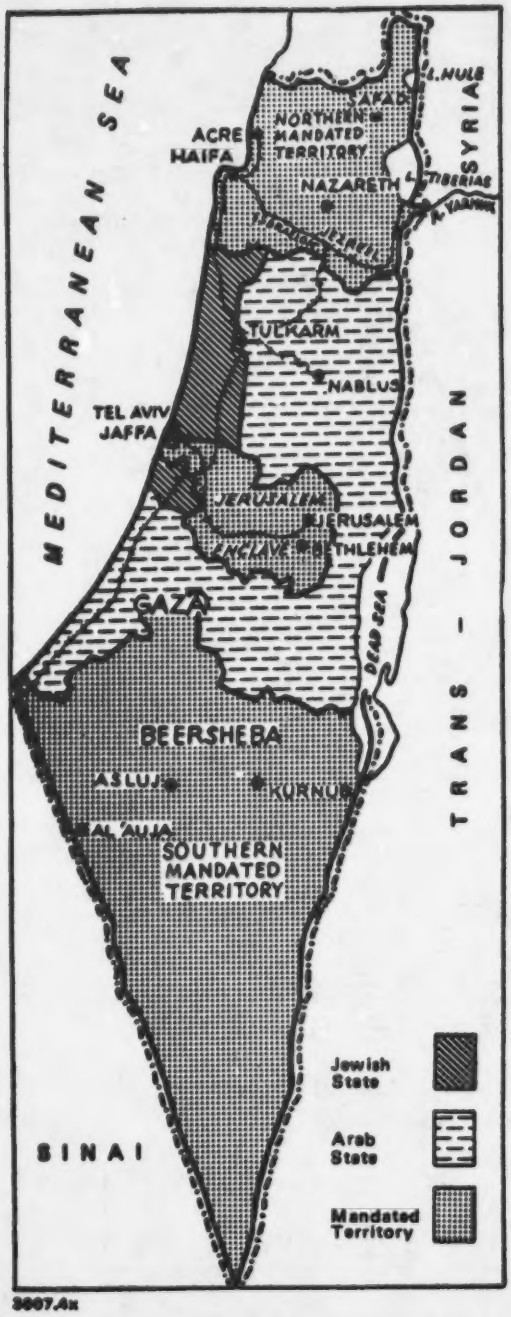
(Based on map in Cmd. 5854, 1938)

PALESTINE PARTITION PLAN B, 1938

(Proposed by Palestine Partition Commission, 1938)

(Based on map in Cmd. 5854, 1938)

ANNEX IX



PALESTINE PARTITION PLAN C, 1938

(Proposed by Palestine Partition Commission, 1938)

(Based on map in Cmd. 5854, 1938)

PART II

1947-1977

INTRODUCTION

At the end of the First World War, Palestine was among the several former Ottoman Arab territories which were made mandated territories by the League of Nations. The relevant provisions of the League's Covenant (Article 22) referred to these territories as "certain communities formerly belonging to the Turkish Empire [which] have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative assistance and advice by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory".

All but one of these Mandated Territories (categorized as class "A" Mandates) whose independence was provisionally recognized became fully independent States, as anticipated. The exception was Palestine where, instead of being limited to "the rendering of administrative assistance and advice" the Mandate had as a primary aim the implementation of the "Balfour Declaration" issued by the British Government in 1917, conveying that Government's support for "the establishment in Palestine of a national home for the Jewish people". This commitment was included in the mandate for Palestine, formally allotted in 1922 to Great Britain by the League of Nations, without having ascertained the wishes of the Palestinian people, as required by the Covenant.

During the 25 years of the Palestine Mandate, from 1922 to 1947, large-scale Jewish immigration from abroad, mainly from Eastern Europe took place, the numbers swelling in the 1930s with the notorious Nazi persecution of Jewry. Over this period the Jewish population of Palestine, composed principally of immigrants, increased from less than 10 per cent in 1917 to over 30 per cent in 1947. Palestinian demands for independence and resistance to Jewish immigration led to a rebellion in 1937, followed by continuing terrorism and violence from both sides during and immediately after the Second World War. Great Britain, as the Mandatory Power, tried to implement various formulas to bring independence to a land ravaged by violence. A partition scheme, a formula for provincial autonomy, a unified independent Palestine were all considered and abandoned, and in 1947, Great Britain in frustration turned the problem over to the United Nations.

I. THE UNITED NATIONS GENERAL ASSEMBLY SPECIAL SESSION ON PALESTINE

The United Nations took up the question of Palestine in February 1947, on the request of Great Britain, the Mandatory Power which had governed Palestine since 1917, first as an occupying Power and then under a mandate from the League of Nations in 1922. By this time all countries in the Middle East formerly under mandates were independent. The only exception was Palestine, a sui generis where the transition to independence had been impeded by violence arising out of the self-contradictory terms of the Mandate. Where in principle it should have provided a transition to independence, the Mandate's commitment to establishing a Jewish national home in Palestine had created a situation where conflict between Arabs and Jews in the area about the character of the future Palestinian State complicated the process. British attempts to resolve the issue by the partition of Palestine into two independent States or by relinquishing the mandate with the consequent emergence of an independent unified Palestine had failed in the face of the opposition of the Palestinian Arabs to the former plan and of the Zionist movement to the latter. Faced with a situation over which it was losing control, the British Government turned the problem over to the United Nations on the ground that the conflicting obligations assumed under the Mandate were irreconcilable.

The Palestine question in the United Nations

The British Government's decision in February 1947 to place the Palestine question before the United Nations was followed by several weeks of examining the various alternatives and the difficulties they entailed. For the Security Council to take up the issue could involve the veto. Another appropriate forum was the Trusteeship Council, but this would require a trusteeship agreement with Great Britain in a role similar to that which it was trying to shed. The eventual decision was to move the question in the General Assembly.

Meanwhile, violence continued to spread in Palestine as Zionist terrorist groups, now on the offensive, stepped up their attacks and sabotage. Illegal immigration into Palestine increased sharply. With a regular session several months away, the British Government, under the pressure of violence in Palestine, requested a special session of the General Assembly to consider the appointment of a special committee "to make recommendations ... concerning the future government of Palestine". 1/

The question of independence for Palestine

The first special session of the United Nations General Assembly convened on 28 April 1947 to consider the question of Palestine, electing Oswaldo Aranha of Brazil as its President. Egypt, Iraq, Lebanon, Saudi Arabia and Syria had launched a concerted effort to obtain a substantive debate on the issue of independence for Palestine by addressing identical requests that the Assembly place on its agenda an additional item reading: "The termination of the mandate over Palestine and the declaration of its independence". 2/ The Secretariat had also received requests from the Jewish Agency in Palestine, as well as other Zionist and Jewish organizations, requesting to be heard by the Assembly. Both matters were taken up by the General Committee.

The Arab countries argued forcefully, in support of their request, that the League of Nations having recognized the provisional independence of class "A" Mandates, the United Nations could not avoid the issue of independence for

Palestine. The entire history of Mandated Palestine was recounted, the Balfour Declaration and the Covenant analysed, the various Commission reports cited. The Lebanese delegate declared:

> "Moreover, if you do not envisage independence now as a possibility, do you not really prejudge it yourself? Are you not really saying in effect that the United Nations itself - not a certain Power, but the United Nations - is really so afraid of envisaging the ultimate possibility of independence for Palestine that it is not even willing to discuss it in plenary session in this Assembly? I think that is a far more grievous prejudgement of the ultimate issue of this case than if we simply said at the present moment that we shall discuss this question with that ultimate end in view and bring forth all arguments concerning it.
>
> "Surely the United Nations is above any one particular Government or State. Therefore, it cannot only meet the wishes of one Government, or two, or even a combination of Governments. Surely it is so detached and so far above particular Governments as to be able, in its own detachment, to envisage and discuss every possibility, including the possibility of independence." 3/

With the majority of the permanent members opposed, it became evident that the item proposed by the Arab countries would not succeed. Egypt stated it would not press for a vote, but the Chairman ruled that a vote was mandatory, and the proposal was rejected in the General Committee 4/ and a few days later again in the plenary. 5/ The British request was inscribed in the agenda for the special session.

Palestinian and Zionist representation

The Jewish Agency's request to be heard was based on the ground that while the Arab States were advocates for the Palestinian case, the Jewish case was unrepresented. This request was pressed in the strongest terms by Poland, claiming a special interest since almost half the Jewish immigrants in Palestine were from Poland, and other East European States. The matter faced complications, since there was no provision for non-governmental organizations to appear before the Assembly, and no precedent. The Secretary-General explained:

> "This is not the first time we have had similar requests to be heard in the Assembly in connection with items on the agenda. They have always been turned down by the former President ... without consultation with the General Committee because he considered that the administration of the Assembly was in his hands. The question has never been pressed ... Representatives of non-governmental organizations have never been heard in the Assembly with regard to items on the agenda.
>
> "I should like to explain this because, if the General Committee recommends that this special session of the Assembly allow a hearing of non-governmental organizations in the Assembly, it will be a change from the practice which we have followed until now ..." 6/

Nevertheless the General Assembly directed the First Committee to accept the Jewish Agency's request to present its case. The Jewish Agency was informed of the decision by a telegram from the President of the General Assembly. The First Committee was also directed to consider "other communications of a similar character" that had been or might be received by the United Nations.

This action by the Assembly led directly into the question of the request by the Palestinian Arabs to be heard. In keeping with the General Assembly resolution, the Palestinian request was referred to the First Committee and drew immediate protest by telegram from Palestine:

> "We have the honour to refer to our letter dated 5 May requesting to be heard on the Palestine problem and to convey to you the following. Our request, which was submitted on behalf of the Arabs of Palestine, who constitute the great majority of the population of the country, was sent with other requests to the First Committee for decision, while the request of the Jewish Agency, which represents an alien and imposed minority, was accepted directly by the General Assembly. This is not in keeping with the position and rights of the Arabs of Palestine nor with the principles of justice and democracy. Although the Palestine Arab delegation cannot believe that such was the intention of the honourable members of the General Assembly, yet the fact and implications of the resolution are such that the Palestine Arab delegation, whilst reserving its future attitude, finds no alternative but to withdraw its request for a hearing. At the same time, we wish to put on record before the United Nations that the Arabs have never recognized and will never recognize the mandate over Palestine or any act or body deriving from it. We shall be grateful to Your Excellency if you will convey this communication to the General Assembly.
>
> "The Palestine Arab delegation ..." 7/

This Palestinian protest was against the international recognition granted to the Jewish Agency by the Assembly, similar to that accorded to it by the League of Nations, the Palestinian Arabs being relegated to an inferior position in each case. The Arab States also protested, and the matter was settled by the First Committee recommending to the Assembly a resolution reading:

> "... the decision of the First Committee to grant a hearing to the Arab Higher Committee gives a correct interpretation of the Assembly's intentions". 8/

The Arab Higher Committee then decided to appear before the First Committee.

The discussion on the Special Committee

The two complex questions facing the First Committee, with Mr. Lester Pearson of Canada in the chair, were the composition of the United Nations Special Committee on Palestine and its terms of reference, with markedly differing approaches reflected in the two major draft resolutions to come under discussion.

The first, from Argentina, proposed a Special Committee of 11 members, consisting of the permanent members of the Security Council, an Arab State and five other States chosen by lot to ensure representation of all regions. The Committee would hear British, Arab and Jewish representatives, and would have "the widest powers both to record facts and to make recommendations". 9/ The second, from the United States, proposed a Special Committee of seven "neutral" States, the permanent members of the Security Council as well as the Arab States being excluded. The task of the Committee, which would be authorized "to sit wherever it may consider necessary or desirable for the fulfilment of its tasks", would be:

"To assemble, analyse, and collate all pertinent data on the question; to receive testimony from interested Governments and from such non-governmental organizations and individuals as the Committee in its discretion may deem appropriate; to study the various issues which are involved and to submit to the next regular session of the General Assembly such proposals for the solution of the problem of Palestine as it may determine to be useful for the effective consideration of the problem by the General Assembly." 10/

A central question in the discussion on the Special Committee was whether the problem of Jewish refugees in Europe should be linked with the Palestine problem. A European delegate stressed the importance of separating the two:

"... the difficulty of finding a just and satisfactory solution to the Palestine question are increased by the linking together of two problems which are not necessarily interdependent.

"The first problem is the question of the future status of Palestine; the second problem is the question of the homeless Jews in Europe. These two problems are usually linked together in every discussion of the Palestine question. It is taken for granted that the only solution of the humanitarian problem of Jewish homelessness is immigration to Palestine and it is thus dependent upon a solution of the political question of the future status of Palestine.

"It must be manifest to everybody that the only effect of linking together these two problems is to render more difficult the solution of each. It is evident that the appalling tragedy of the homeless Jews in Europe makes it much more urgent to find a solution to the question of Palestine, as long as Palestine is considered to be the only place where Jewish refugees can find a home.

"This problem of Jewish homelessness can only be eased if the Member States will grant Jewish refugees a temporary or a permanent home." 11/

The Syrian delegate stressed the Arab view on this issue on the following day, when the delegation, making the above statement had changed its position:

"The representative ... wishes to connect the question of the displaced persons and refugees in Europe with the question of Palestine. We find that there is no way to connect the two ...

"One of the resolutions concerning the refugees and displaced persons in Europe ... states clearly that the resettlement of displaced persons should not be undertaken in any Non-Self-Governing Territory without the consent of the population of that Territory, and that resettlement should not be contemplated in any place where friendly relations between States would thereby be disturbed.

"The organization set up to care for refugees is already established, and it is going on with its work. The resettlement or repatriation of the refugees and displaced persons in Europe should be considered by that organization, and not by the Special Committee which is to be established here.

"The question of Palestine is altogether independent and separate from the question of persecuted persons of Europe. The Arabs of Palestine are not responsible in any way for the persecution of the Jews in Europe. That persecution is condemned by the whole civilized world, and the Arabs are among those who sympathize with the persecuted Jews. However, the solution of that problem cannot be said to be a responsibility of Palestine, which is a tiny country and which had taken enough of those refugees and other people since 1920 ... Any delegation which wishes to express its sympathy has more room in its country than has Palestine, and has better means of taking in these refugees and helping them". 12/

On the other hand, the representative of the Jewish Agency, by now participating in United Nations proceedings, insisted that the two questions be linked and that the Special Committee visit Europe:

"The members of the Committee will ask themselves, I am sure, why shiploads of helpless Jewish refugees - men, women, and children who have been through all the hells of Nazi Europe - are being driven away from the shores of the Jewish national home by a Mandatory Government which assumed, as its prime obligation, the task of facilitating Jewish immigration into that country".

"If it is granted that the Jewish people are in Palestine as of right, then all the implications and corollaries of that premise must be accepted. The foremost is that Jews must be allowed to resettle in Palestine in unlimited numbers, provided only they do not displace or worsen the lot of the existing inhabitants who are also there as of right. If that basic premise is not granted, then there is very little to discuss ..." 13/

The United States draft (somewhat amended) was approved after the Argentinian draft was withdrawn, and the mission of the Special Committee was approved in broad terms:

"The Special Committee shall prepare a report to the General Assembly and shall submit such proposals as it may consider appropriate for the solution of the problem of Palestine". 14/

While avoiding specific reference to the refugee situation in Europe, the Special Committee was authorized to conduct investigations anywhere it considered necessary, thus assuring an indirect linkage of the Jewish refugee issue to the future of Palestine.

During the discussion in the Committee, the Soviet and Polish representatives proposed amendments to its terms of reference requiring it to submit proposals on the question of establishing "the independent democratic State of Palestine", both amendments being defeated. 15/ In the plenary, however, the Soviet representative referred to the possibility of the partition of Palestine:

"The fact that no Western European State has been able to ensure the defence of the elementary rights of the Jewish people, and to safeguard it against the violence of the fascist executioners, explains the aspirations of the Jews to establish their own State. It would be unjust not to take this into consideration and to deny the right of the Jewish people to realize this aspiration ...

"Thus, the solution of the Palestine problem by the establishment of a single Arab-Jewish State with equal rights for the Jews and the Arabs may be considered as one of the possibilities and one of the more noteworthy methods for the solution of this complicated problem ...

"If this plan proved impossible to implement, in view of the deterioration in the relations between the Jews and the Arabs ... then it would be necessary to consider the second plan which, like the first, has its supporters in Palestine, and which provides for the partition of Palestine into two independent autonomous States, one Jewish and one Arab. I repeat that such a solution of the Palestine problem would be justifiable only if relations between the Jewish and Arab populations of Palestine indeed proved to be so bad that it would be impossible to reconcile them and to ensure the peaceful co-existence of the Arabs and the Jews ..." 16/

The Arab delegations strongly protested the omission of reference to an independent Palestinian State in the terms of reference of the Special Committee:

"... by the stroke of a pen the reference to the independence of Palestine has been in effect removed, the Committee failing even to conform to the spirit of the request of the British Government as embodied in its letter of appeal to the United Nations for a settlement of this problem, we feel indeed that the First Committee has exceeded its powers and was not within its rights when it decided to delete the sentence referring to 'the future government of Palestine' and replaced it by a vague and broad reference to 'the question of Palestine ...'" 17/

The case for the recognition of the rights of the Palestinian Arabs had fared badly in the special session. UNSCOP's charter contained no reference to the termination of the Mandate and independence for Palestine. The issue of Jewish European refugees had been linked with Palestine.

II. THE UNITED NATIONS SPECIAL COMMITTEE ON PALESTINE

The Special Committee held preliminary meetings in New York, electing Justice Emil Sandström of Sweden as Chairman, and reached Palestine in mid-June 1947. The Arab League's Secretary General had indicated that the League would co-operate, but the Palestinian leadership in the Arab Higher Committee decided against participation, informing the Special Committee by cable:

> "... Arab Higher Committee Palestine desire convey to United Nations that after thoroughly studying the deliberations and circumstances under which the Palestine fact-finding Committee was formed and the discussions leading to terms of reference they resolved that Palestine Arabs should abstain from collaboration and desist from appearing before said committee for following main reasons - firstly United Nations refusal adopt natural course of inserting termination Mandate and declaration independence in agenda special United Nations session and in terms of reference secondly failure detach Jewish world refugees from Palestine problem thirdly replacing interests Palestine inhabitants by insertion world religious interests although these are not subject of contention - furthermore Palestine Arabs natural rights are self evident and cannot continue to be subject to investigation but deserve to be recognized on the basis of principles of United Nations Charter." 18/

The Special Committee Chairman appealed by radio broadcast and later by letter for co-operation from the Arab High Committee which kept to its decision of non-co-operation.

The Jewish case before the Special Committee

Jewish organizations, on the other hand, extended full co-operation, submitting over a hundred documents, some lengthy and detailed, to the Special Committee compared to two brief papers presented by the Arab States. The Jewish Agency appointed two liaison officers with the Special Committee on the latter's request. The Zionist terrorist groups assured the Special Committee of safety.

The Jewish case was presented by numerous representations over several hearings. Mr. David Ben-Gurion, one of the chief Zionist advocates, charged Great Britain, which, under the "Churchill policy" had built up the "national home", of undermining Jewish aspirations:

> "We are a small, weak, defenceless people, and we know that there can be no security for us, neither as individuals nor as a people, neither in the Diaspora nor in our homeland, even after we become an independent nation in our own State, as long as the whole human family is not united in peace and good will ...
>
> "A great people and the entire civilized world recognized our right to reconstitute our national home here. And now the same Government that was charged with that sacred trust of promoting the Jewish national home has put us into a territorial ghetto ...
>
> "But all this does not change the fundamental fact that the Mandate for Palestine has not been implemented, its primary purpose has not been carried out and was very often obstructed even before the White Paper. The Mandatory

in Palestine failed not because Jews and Arabs did not co-operate, but because the Mandatory refused to co-operate with the Mandate ..." 19/

Upon being questioned on the Jewish Agency's position on a partition of Palestine, Ben-Gurion was non-committal:

"... we stand by the attitude we took last year, that we will be ready to consider the question of a Jewish State in an adequate area of Palestine, and that we are entitled to Palestine as a whole." 20/

He also said that if a United Nations decision in favour of Zionist aims provoked violent protest from the Palestinian Arabs, "... we will take care of ourselves." 21/

Dr. Weizmann, appearing in his personal capacity, was more amenable to accepting partition:

"... if I, personally, came to the conclusion that partition is the best, I did so by a process of elimination. I know that one speaks of a bi-national State; a sort of federal solution; ... I do not think that they have advantages of partition which is final, definite, and crystallized. Anything that will leave an uncertainty will leave room for pulling by the two forces. The Jews will want to get something better. The Arabs will want to push us out of what we have. Therefore, I believe although partition means a sort of Solomon's judgement, it is under the circumstances perhaps the better ..." 22/

As was to be expected, the British Government strongly refuted the Zionist allegations against them:

"... The general theme of Mr. Ben-Gurion's statements is an attack on Britain and a charge of failing to fulfil international pledges. He says ... that the Administrations in Palestine and London were biased against the Mandate from the beginning and did everything they could do to obstruct it. The fact that the national home could neve. have been established without the direct assistance and support that Britain has given to it, with the expenditure of British resources and British lives, apparently requires to be restated, in these simple terms. The denial of this fact, the concealment of the truth and the failure to recognise that there was ever any reason for granting the most extreme Jewish demands in the face of bitter opposition from the inhabitants of the country must appear to all impartial observers as at least a gross self-deception ..." 23/

The Palestinian Arab case

Having heard the Zionist position and also the British Government's views, the Special Committee again urged Palestinian and Arab spokesmen to present their case. The Arab Higher Committee of Palestine repeated its refusal to appear before the Special Committee, commenting that it would present the Palestinian case to the General Assembly. The Arab League states agreed to meet the Special Committee in Lebanon, the only exception being Transjordan, which would meet the Special Committee only in Amman.

The main points of the presentation of the Arab case are summarized in these words:

"... the question of creation of a Jewish State cannot be taken without two other connected problems; that is, the question of immigration and that of foreign subsidies. A Jewish State would, of course, be master of the immigration into Palestine. It might decide that immigration would be without limits and the economic argument, which would be that it is impossible for a very large number of people to live in a very small territory, would become void if the Jewish State can still reckon with foreign financial support. Therefore, with the doors of the country wide open to immigration, and financial support from outside, the Jewish State would become extremely populated. Therefore, it might not be 1 million, but 2, 3, 4 million, since it would not depend on its own economy or its own production. As soon as it goes beyond a certain limit in numbers, it is no longer a State where Jews can come and be safe but it becomes a bridgehead against the Arab world. This is what we absolutely want to avoid.

"... The destiny of Palestine cannot be decided by outsiders. It is against the Charter. The destiny of Palestine shall be decided by its own people. The people of Palestine shall decide the destiny of Palestine ...

"Zionism has no rightful claim on Palestine. In the implementation of their programme, they have exclusively relied on the support of a foreign power régime conducting itself arbitrarily and unjustly. Their forces have been forces of repression." 24/

The Egyptian delegate expressed a particular concern:

"... the Egyptian Government certainly views with grave concern the establishment of Jewish colonies near the Egyptian frontier. That is only an indication of the first step towards the execution of Jewish ambitions towards Sinai which is already mentioned in the different proclamations, and certainly the Egyptian Government has taken measures against this danger which is getting nearer and nearer to the Egyptian territories ..." 25/

A delegation of the Special Committee visited Amman, and ascertained that Transjordan fully supported the Arab position on the Palestine question.

The Special Committee's visit to Europe

From Palestine the Special Committee moved to Geneva, from where a sub-committee was sent to investigate refugee camps in Germany and Austria. The sub-committee reported:

"The alternatives to resettlement, namely, repatriation or absorption into the German or Austrian communities were investigated. The prevailing reaction among the persons questioned, many of whom had returned to their former place of residence in order to trace relatives and property, was a refusal to repatriate. The reasons given were based on a fear of growing anti-Semitism ... The feeling of anti-Semitism is strong among the native population, especially towards the Jews now living in assembly centres.

"The question arises whether the determination to go to Palestine would change substantially if real prospects of resettlement in other countries were offered. The overwhelming majority of the persons questioned affirmed that they would not consider resettlement in any country except Palestine,

declaring that they would rather wait indefinitely until the opportunity to go to Palestine came or attempt illegal passage ...

"As a matter of fact, it is probable that the state of mind prevailing in centres is due to a combination of factors which all react upon one another. There is undoubtedly a certain element of propaganda, and there is also an element of self-persuasion ... As regards propaganda, some actual evidence was seen in the form of posters and written material at some of the centres. In particular, at one centre a poster was noted with the inscription 'Palestine - a Jewish State for the Jewish people' and also a large pictorial design showing Jews from eastern Europe on the march towards Palestine shown as a much larger area than the present geographical limits ..." 26/

In a separate note, a member of the Special Committee recorded:

"... It was admitted to us by Mr. Sommerfelt of the Preparatory Commission of the International Refugee Organization that considerable propaganda is being carried on by or on behalf of the Jewish Agency in the camps for displaced persons with the object of inducing Jews to immigrate into Palestine, although he found that those staying in these camps as a general rule agree, if they are afforded opportunities, to go to places other than Palestine ..." 27/

The Special Committee concluded its three-month investigations by August 1947, and its report summarized the Jewish and Arab cases as follows:

"The Jewish case

"The Jewish case, as herein considered, is mainly the case advanced by the Jewish Agency which, by the terms of the Mandate, has a special status with regard to Jewish interests in Palestine.

"The Jewish case seeks the establishment of a Jewish State in Palestine. In the Jewish case, the issues of the Jewish State and unrestricted immigration are inextricably interwoven. On the one hand, the Jewish State is needed in order to assure a refuge for the Jewish immigrants who are clamoring to come to Palestine from the displaced persons camps and from other places ... On the other hand, a Jewish State would have urgent need of Jewish immigrants in order to affect the present great numerical preponderance of Arabs over Jews in Palestine. The Jewish case frankly recognizes the difficulty involved in creating at the present time a Jewish State in all of Palestine in which Jews would, in fact, be only a minority, or in part of Palestine in which, at best, they could immediately have only a slight preponderance. Thus, the Jewish case lays great stress on the right of Jewish immigration, for political as well as humanitarian reasons. Special emphasis is therefore placed on the right of Jews to 'return' to Palestine ..." 28/

The summary of the Arab case was as follows:

"The Arab case

"The Arab case seeks the immediate creation of an independent Palestine west of the Jordan as an Arab State ...

"They postulate the 'natural' right of the Arab majority to remain in undisputed possession of the country, since they are and have been for many centuries in possession of the land. This claim of a 'natural' right is based on the contention that the Arab connection with Palestine has continued uninterruptedly from early historical times.

"The Arabs also claim 'acquired' rights, based on the general promises and pledges officially made to the Arab people in the course of the First World War ...

"In the Arab view, these undertakings, taken collectively, provide a firm recognition of Arab political rights in Palestine which, they contend, Great Britain is under a contractual obligation to accept and uphold - an obligation thus far unfulfilled ...

"The Arabs have persistently adhered to the position that the Mandate for Palestine, which incorporated the Balfour Declaration, is illegal. The Arab States have refused to recognize it as having any validity ..." 29/

The Special Committee, however, had been unable to agree on recommendations. A majority of members (Canada, Czechoslovakia, Guatemala, Netherlands, Peru, Sweden and Uruguay) recommended the partition of Palestine into two States that would be politically separate and independent, but would administer a unified economy. Jerusalem would be an international city. The minority (India, Iran and Yugoslavia) proposed an independent Palestine as a federated State with Jerusalem as its capital. Australia did not support either proposal.

The only unanimous agreement was on the termination of the Mandate, the principle of independence, and a United Nations role:

"The Mandate for Palestine shall be terminated at the earliest practicable date ...

"Independence shall be granted in Palestine at the earliest practicable date ...

"During the transitional period the authority entrusted with the task of administering Palestine and preparing it for independence shall be responsible to the United Nations ...

"The General Assembly (should) undertake the initiation and execution of an international arrangement whereby the problem of the dispersed European Jews, of whom approximately 250,000 are in assembly centres, will be dealt with as a matter of extreme urgency for the alleviation of their plight and of the Palestine problem ..." 30/

The justification for the majority plan of partition with economic union was presented as follows:

"The basic premise underlying the partition proposal is that the claims to Palestine of the Arabs and Jews, both possessing validity, are irreconcilable, and that among all of the solutions advanced, partition will

provide the most realistic and practicable settlement, and is the most likely to afford a workable basis for meeting in part the claims and national aspirations of both parties ...

"The basic conflict in Palestine is a clash of two intense nationalisms. Regardless of the historical origins of the conflict, the rights and wrongs of the promises and counter-promises, and the international intervention incident to the Mandate, there are now in Palestine some 650,000 Jews and some 1,200,000 Arabs who are dissimilar in their ways of living and, for the time being, separated by political interests which render difficult full and effective political co-operation among them, whether voluntary or induced by constitutional arrangements.

"The partition solution provides that finality which is a most urgent need in the solution. Every other proposed solution would tend to induce the two parties to seek modification in their favour by means of persistent pressure. The grant of independence to both States, however, would remove the basis for such efforts.

"Partition is based on a realistic appraisal of the actual Arab-Jewish relations in Palestine. Full political co-operation would be indispensable to the effective functioning of any single-State scheme, such as the federal State proposal, except in those cases which frankly envisage either an Arab or a Jewish-dominated State.

"Partition is the only means available by which political and economic responsibility can be placed squarely on both Arabs and Jews, with the prospective result that, confronted with responsibility for bearing fully the consequences of their own actions, a new and important element of political amelioration would be introduced. In the proposed federal State solution, this factor would be lacking.

"Jewish immigration is the central issue in Palestine today and is the one factor, above all others, that rules out the necessary co-operation between the Arab and Jewish communities in a single State. The creation of a Jewish State under a partition scheme is the only hope of removing this issue from the arena of conflict.

"It is recognized that partition has been strongly opposed by Arabs, but it is felt that that opposition would be lessened by a solution which definitively fixes the extent of territory to be allotted to the Jews with its implicit limitation on immigration. The fact that the solution carries the sanction of the United Nations involves a finality which should allay Arab fears of further expansion of the Jewish State ..." 31/

The justifications for the minority recommendation of a federal independent State were:

"It is incontrovertible that any solution for Palestine cannot be considered as a solution of the Jewish problem in general.

"It is recognized that Palestine is the common country of both indigenous Arabs and Jews, that both these peoples have had an historic association with

it, and that both play vital roles in the economic and cultural life of the country.

"This being so, the objective is a dynamic solution which will ensure equal rights for both Arabs and Jews in their common State, and which will maintain that economic unity which is indispensable to the life and development of the country.

"The basic assumption underlying the views herein expressed is that the proposal of other members of the Committee for a union under artificial arrangements designed to achieve essential economic and social unity after first creating political and geographical disunity by partition, is impracticable, unworkable, and could not possibly provide for two reasonably viable States ...

"It would be a tragic mistake on the part of the international community not to bend every effort in this direction. Support for the preservation of the unity of Palestine by the United Nations would in itself be an important factor in encouraging co-operation and collaboration between the two peoples, and would contribute significantly to the creation of that atmosphere in which the will to co-operate can be cultivated. In this regard, it is realized that the moral and political prestige of the United Nations is deeply involved ...

"While the problem of Jewish immigration is ... closely related to the solution of the Palestine question, it cannot be contemplated that Palestine is to be considered in any sense as a means of solving the problem of world Jewry. In direct and effective opposition to any such suggestion are the twin factors of limited area and resources and vigorous and persistent opposition of the Arab people, who constitute the majority population of the country.

"For these reasons, no claim to a right of unlimited immigration of Jews into Palestine, irrespective of time, can be entertained. It follows, therefore, that no basis could exist for any anticipation that the Jews now in Palestine might increase their numbers by means of free mass immigration to such extent that they would become the majority population in Palestine ..." 32/

The two plans were placed before the General Assembly in September 1947.

The Special Committee and events in Palestine

During its five weeks in Palestine, the Special Committee was involved in more than official hearings. Almost immediately after its arrival in Jerusalem, the Special Committee was drawn into a case in which a death sentence to three members of the Irgun for terrorist activities was awaiting confirmation by the High Commissioner. An Irgun leader, Mr. Menachem Begin, had warned that the two British sergeants, kidnapped by the Irgun, would be killed as a reprisal if the death sentences were carried out. The Special Committee received a petition from the families of the condemned men, pleading that it intercede. The issue, presenting a dilemma to the Special Committee concerning its competence, was discussed in closed meetings, which resulted in the Special Committee passing a resolution expressing "concern as to the possible unfavourable repercussions that execution of the three death sentences ... might have upon the fulfilment of the task (of the Special Committee) ...", and forwarding the letter to the United Nations Secretary-General,

informing the families that it would also be forwarded to the Mandatory Power. 33/ The British Government responded that the case was:

> "... still sub judice. If the sentences are confirmed by the General Officer Commanding, it will then be open to the High Commissioner for Palestine to exercise, if he thinks fit, the royal prerogative of pardon delegated to him by His Majesty. It is the invariable practice of His Majesty's Government not to interfere with the High Commissioner's discretion whether or not to exercise this prerogative ..." 34/

Shortly after the Special Committee left Palestine, the three condemned men were executed, and the two British sergeants killed in reprisal in a wider wave of violence.

Other incidents concerned the illegal immigration that then was at its height. The Special Committee came under considerable pressure from the Jewish Agency to visit the internment camps in Cyprus where illegal immigrants who had been apprehended were held, but decided against such a visit. 33/ One incident involved the vessel Exodus 1947 with 4,500 illegal refugees, intercepted by British vessels and towed into Haifa harbour for trans-shipment. Violence broke out and was witnessed by members of the Special Committee, which noted in its report:

> "... There can be no doubt that the enforcement of the White Paper of 1939, subject to the permitted entry since December 1945 to 1,500 Jewish immigrants monthly, has created throughout the Jewish community a deep-seated distrust and resentment against the Mandatory Power. This feeling is most sharply expressed in regard to the Administration's attempts to prevent the landing of illegal immigrants. During its stay in Palestine, the Committee heard from certain of its members an eyewitness account of the incidents relative to the bringing into the port of Haifa, under British naval escort, of the illegal immigrant ship, Exodus 1947. In this, as in similar incidents, the Committee has noted the persistence of the attempts to bring Jewish immigrants to Palestine irrespective of determined preventive measures on the part of the Administration, and also the far-reaching support which such attempts receive from the Jewish community in Palestine and abroad. The unremitting struggle to admit further Jews into Palestine, irrespective of the quota permitted by the Administration, is a measure of the rift which has developed between the Jewish Agency and the Jewish community, on the one hand, and the administration on the other. In the present state of tension, little practicable basis exists for the discharge by the Jewish Agency of its function under the Mandate of 'advising and cooperating' with the Administration in matters affecting the interests of the Jewish community ..." 35/

The situation in Palestine in 1947

The Special Committee's report described the situation prevailing in Palestine during its stay as follows:

> "The present situation
>
> "The atmosphere in Palestine today is one of profound tension. In many respects the country is living under a semi-military régime. In the streets of Jerusalem and other key areas barbed wire defences, road blocks, machine-gun posts and constant armoured car patrols are routine measures. In

areas of doubtful security, Administration officials and the military forces live within strictly policed security zones and work within fortified and closely-guarded buildings. Freedom of personal movement is liable to severe restriction and the curfew and martial law have become a not uncommon experience. The primary purpose of the Palestine Government, in the circumstances of recurring terrorist attacks, is to maintain what it regards as the essential conditions of public security. Increasing resort has been had to special security measures provided for in the defence emergency regulations. Under these regulations, a person may be detained for an unlimited period, or placed under police supervision for one year, by order of an area military commander; and he may be deported or excluded from Palestine by order of the High Commissioner. Where there are reasons to believe that there are grounds which would justify ... detention ... or deportation, any person may be arrested without warrant by any member of His Majesty's Forces or any police officer and detained for not more than seven days, pending further decision by the military commander. The regulations concerning military courts prohibit a form of judicial appeal from or questioning of a sentence or decision of a military court. Under the regulations, widespread arrests have been made; and as of 12 July 1947, 820 persons were being held in detention on security grounds, including 291 in Kenya under Kenya's 1947 ordinance dealing with the control of detained persons. The detainees were all Jews with the exception of four Arabs. In addition to these, 17,873 illegal immigrants were under detention.

"The attitude of the Administration to the maintenance of public security in present circumstances was stated to the Committee in the following terms:

"The right of any community to use force as a means of gaining its political ends is not admitted in the British Commonwealth. Since the beginning of 1945 the Jews have implicitly claimed this right and have (sic) supported by an organized campaign of lawlessness, murder and sabotage their contention that, whatever other interests might be concerned, nothing should be allowed to stand in the way of a Jewish State and free Jewish immigration into Palestine. It is true that large numbers of Jews do not today attempt to defend the crimes that have been committed in the name of these political aspirations. They recognize the damage caused to their good name by these methods in the court of world opinion. Nevertheless, the Jewish community of Palestine still publicly refuses its help to the Administration in suppressing terrorism, on the ground that the Administration's policy is opposed to Jewish interests. The converse of this attitude is clear, and its result, however much the Jewish leaders themselves may not wish it, has been to give active encouragement to the dissidents and freer scope to their activities ..." 35/

The Special Committee's report also contained a description of how far the Zionist movement had advanced towards its goal of a Jewish state in Palestine:

"Development of the national home

"In 1937, the members of the Palestine Royal Commission summed up their impressions thus: 'Twelve years ago the national home was an experiment, today it is a going concern'. Within the decade since their report was issued, the Jewish population of Palestine has increased from 400,000 to some

625,000. In place of the 203 agricultural settlements containing some 97,000 there are now more than 300 such settlements and small towns with a population of some 140,000. The larger towns and cities of the Yishuv (Jewish community in Palestine) have likewise greatly expanded both in size and amenities ...

"Membership in the Jewish community is virtually automatic for all Jews aged 18 or more who have lived in Palestine for at least three months. All adults in the community from the age of 20 participate in voting for the Elected Assembly, from which is formed the Va'ad Leumi (National Council). The Va'ad Leumi maintains, almost exclusively from its own tax revenue and resources, in co-operation with other community organizations, the Jewish school system and a network of public health and social services ...

"In the life of the Jewish community, the Jewish Agency occupies a special place in virtue both of its status under article 4 of the Mandate and as a representative organization of world Jewry. Organized in Palestine into some 20 departments corresponding in general to the departments of State in a self-governing country, the Agency concerns itself with every aspect of Jewish economic and social development in Palestine and exercises a decisive influence in major questions of policy and administration, particularly in regard to immigration and agricultural development.

"The Yishuv (Jewish community in Palestine) is thus a highly organized and closely knit society which, partly on a basis of communal effort, has created a national life distinctive enough to merit the Royal Commission's title of a State within a State ..." 36/

III. THE AD HOC COMMITTEE ON PALESTINE

When the second session of the United Nations General Assembly convened in September 1947 it constituted itself as an Ad Hoc Committee to deal with the Palestine question while considering in its normal session the other items on its agenda.

The essential points of the Special Committee on Palestine's majority and minority plans were as given below:

"The majority proposal: Partition with economic union

"Partition and independence - Palestine within its present borders, following a transitional period of two years from 1 September 1947, shall be constituted into an independent Arab State, an independent Jewish State, and the City of Jerusalem ...

"Independence shall be granted to each State upon its request only after it has adopted a constitution ... has made to the United Nations a declaration containing certain guarantees, and has signed a treaty creating the Economic Union of Palestine and establishing a system of collaboration between the two States and the City of Jerusalem.

"Citizenship - Palestinian citizens, as well as Arabs and Jews who, not holding Palestinian citizenship, reside in Palestine, shall, upon the recognition of independence, become citizens of the State in which they are resident ...

"Economic union - A treaty shall be entered into between the two States ... The treaty shall be binding at once without ratification. It shall contain provisions to establish the Economic Union of Palestine ...

"Population - The figures given for the distribution of the settled population in the two proposed States ... are approximately as follows:

	Jews	Arabs and others	Total
The Jewish State	498 000	407 000	905 000
The Arab State	10 000	725 000	735 000
City of Jerusalem	100 000	105 000	205 000

"In addition there will be in the Jewish State about 90,000 (Arab) Bedouins ...

"(Jerusalem) - The City of Jerusalem shall be placed under an International Trusteeship System by means of a trusteeship Agreement which shall designate the United Nations as the Administering Authority ..." 37/

"The minority proposal: A Federal State of Palestine

"The independent State of Palestine - The peoples of Palestine are entitled to recognition of their right to independence, and an independent federal State of Palestine shall be created following a transitional period not exceeding three years ...

"The independent federal State of Palestine shall comprise an Arab State and a Jewish State ...

"During the transitional period, a constituent assembly shall be elected by the population of Palestine and shall formulate the constitution of the independent federal State of Palestine ...

"The attainment of independence by the independent federal State of Palestine shall be declared by the General Assembly of the United Nations as soon as the authority administering the territory shall have certified to the General Assembly that the constituent assembly referred to in the precedent paragraph has adopted a constitution ...

"There shall be a single Palestinian nationality and citizenship, which shall be granted to Arabs, Jews and others.

"Jerusalem - Jerusalem, which shall be the capital of the independent federal State of Palestine, shall comprise, for purposes of local administration two separate municipalities, one of which shall include the Arab sections of the city, including that part of the city within the walls, and the other the areas which are predominantly Jewish.

"Jewish immigration into Palestine

"The problem of Jewish immigration into Palestine should be dealt with in the following manner:

(a) For a period of three years from the effective date of the beginning of the transitional period provided for in the solution to be applied to Palestine, even if the transitional period should be less, Jewish immigration shall be permitted into the borders of the Jewish State in the proposed independent federal State of Palestine, in such numbers as not to exceed the absorptive capacity of that Jewish State, having due regard for the rights of the population then present within that State and for their anticipated natural rate of increase. The authority responsible for executing the transitional arrangements on behalf of the United Nations shall take all measures necessary to safeguard these principles.

(b) For the purpose of appraising objectively the absorptive capacity of the Jewish state in the independent State of Palestine, an international commission shall be established. Its membership shall consist of three representatives designated by the Arabs of Palestine, three representatives designated by the Jews of Palestine, and three representatives designated by the appropriate organ of the United Nations." 38/

Reactions to the fundamentally differing recommendations made by the Special Committee appeared, along predictable lines, even before the General Assembly met. The Arab League's Political Committee declared it would strongly resist the partition plan. The Palestine Arab Higher Committee condemned the plan as:

"An excess of injustice to Palestine ... a flagrant violation of the natural rights of the Arabs in their own country ... an echo of the influence of zionism ..." 39/

The Arab Higher Committee, which had refused to co-operate with the Special Committee decided to fight the Palestinian case in the Assembly.

The Zionist Organization approved of the partition resolution, although objecting the Jewish state had not been allotted enough territory and termed the minority proposals "unacceptable". 40/ The Zionists also prepared for the Assembly.

Palestine once again faced a historical decision on its future, reminiscent of the League of Nations decision that made it a mandated territory. The question now was even more fundamental - whether Palestine would attain independence as a unified entity or only by partition. The discussions in the United Nations were long and intense, and only the arguments of the major parties need be summarized here. As in all negotiations, informal political agreements reached outside the chambers were decisive in the final outcome.

Although Great Britain had made clear its intention to divest itself of the mandate, its position as the Mandatory Power gave a special significance to its attitude towards the Special Committee's recommendations. The British representative stated that his Government was in general agreement with the unanimous principles approved by the Special Committee, and would accept any United Nations decision, but that it could not assume any responsibility for its implementation, and would in any event soon withdraw its forces:

> "With regard to ... Jewish displaced persons, the United Kingdom was of the opinion that the entire problem of displaced persons in Europe, Jewish and non-Jewish alike, was an international responsibility and one demanding urgent attention ...
>
> "The United Kingdom Government was ready to assume the responsibility for giving effect to any plan on which agreement was reached by the Arabs and the Jews. If the Assembly were to recommend a policy which was not acceptable to the Jews and the Arabs, the United Kingdom Government would not feel able to implement it. It would then be necessary to provide for some alternative authority to implement it." 41/

The representative of the Arab Higher Committee commented on the Special Committee proposals in these words:

> "The case of the Arabs of Palestine was based on the principles of international justice; it was that of a people which desired to live in undisturbed possession of the country where Providence and history had placed it. The Arabs of Palestine could not understand why their right to live in freedom and peace, and to develop their country in accordance with their traditions, should be questioned and constantly submitted to investigation ...
>
> "The Zionists were conducting an aggressive campaign with the object of securing by force a country which was not theirs by birthright. Thus there was self-defence on one side and, on the other, aggression. The raison d'être of the United Nations was to assist self-defence against aggression ...
>
> "The struggle of the Arabs of Palestine against Zionism had nothing in common with anti-Semitism. The Arab world had been one of the rare havens of refuge for the Jews until the atmosphere of neighbourliness had been poisoned by the Balfour Declaration and by the aggressive spirit which the latter had engendered in the Jewish community ...

"The solution lay in the Charter of the United Nations, in accordance with which the Arabs of Palestine, who constituted the majority were entitled to a free and independent State ...

"Regarding the manner and form of independence for Palestine, it was the view of the Arab Higher Committee that that was a matter for the rightful owners of Palestine to decide. Once Palestine was found to be entitled to independence, the United Nations was not legally competent to decide or to impose the constitutional organization of Palestine, since such action would amount to interference with an internal matter of an independent nation." 42/

The Jewish Agency stated its position as follows:

"While hoping that nations would welcome displaced persons who wished to emigrate to countries other than Palestine, the Jewish Agency considered that it would be unjust to deny the right to go to the Jewish national home to those who wanted to do so.

"Recommendation ... to the effect that any solution for Palestine could not be considered as a solution of the Jewish problem in general, was unintelligible ... The Jewish problem in general was none other than the age-old question of Jewish homelessness, for which there was but one solution - that provided for by the Balfour Declaration and the Mandate - the reconstitution of the Jewish national home in Palestine.

"... the plan proposed by the minority of the Special Committee ... was unacceptable; though it called them States, it actually made provision only for semi-autonomous cantons or provinces. Palestine would be an Arab State with two Jewish enclaves. The Jews, who would be frozen in the position of a permanent minority in the federal State, would not even have control over their own fiscal policies or immigration; the latter, with many other matters of fundamental importance, would be left in the hands of the Arab majority ..." 43/

A lengthy general debate followed in which again the entire history of Palestine was recounted, the Balfour Declaration dissected, the Mandate examined, and the Special Committee's two plans exhaustively analysed. Some representative views are summarized below:

Great Britain

"... in spite of revolts and terrorism, a national home had been established and a Jewish community of over 600,000 persons had been built up, the Arab population had doubled and social and economic standards had advanced to the advantage of all ...

"It had been suggested that the United Kingdom should carry the full responsibility for the administration of Palestine and for enforcing changes proposed by the United Nations during an indefinite transitional period until independence was attained ... The United Kingdom would in no case accept responsibility for enforcement, either alone or in the major role.

"... the illegal immigration into Palestine undertaken with the connivance and assistance of some Governments ... was a question which aroused bitter feelings in Palestine; proposals for a change in the status quo should not lightly be put forward by those who had no responsibility for the consequences ..." 44/

United States

"... the United States delegation supported the basic principles of the unanimous recommendations ... and the majority plan which provided for partition and immigration. Certain amendments and modifications would nevertheless have to be made in the majority plan in order to give effect more accurately to the principles on which that plan was based.

"... by admitting the item on the future government of Palestine to its agenda, the Assembly had not undertaken to assume responsibility for the administration of Palestine during its transition to independence. The responsibility for administration still rested with the Mandatory Power. The General Assembly, however, would not fully discharge its obligation if it did not carefully take into account the problem of implementation ..." 45/

USSR

"... The essence of the question was the right of self-determination of hundreds of thousands of Jews and Arabs living in Palestine; the right of the Arabs as well as the Jews of Palestine to live in freedom and peace in a State of their own. It was necessary to take into consideration all the sufferings and needs of the Jewish people, whom none of the States of Western Europe has been able to help during their struggle against the Hitlerites and the allies of the Hitlerites for the defence of their rights and their existence.

"The Jewish people were therefore striving to create a State of their own and it would be unjust to deny them that right. The problem was urgent and could not be avoided by plunging back into the darkness of the ages.

"Every people - and that included the Jewish people - had full right to demand that their fate would not depend on the mercy or the good will of a particular State. The Members of the United Nations could help the Jewish people by acting in accordance with the principles of the Charter, which called for the guaranteeing to every people of their right to independence and self-determination ..." 46/

Dr. Weizmann appeared, as he had before the Special Committee, in his private capacity. He said:

"... The Mandate had envisaged a far more extensive territory for the Jewish State, eight times larger than that which was not proposed, and, as he had stated before the Special Committee, it was not easy for the Jews to accept such a compromise ...

"The idea of giving the Jews a minority status in an Arab State had been rejected by all the committees and by all impartial tribunals ... It was not in order to become citizens of an Arab State that the Jews, on the strength of international promises, had made their home in Palestine ...

"Thus only one solution remained, namely, the partition of Palestine and the establishment of a Jewish State, as was proposed in the majority plan ..." 47/

A strong exposition of the Palestinian case was as follows:

"The first duty of the United Nations was to prevent aggression. Yet Palestine had suffered from that injustice during the previous 30 years: the United Kingdom had held Palestine by armed force and had compelled the inhabitants to submit to Jewish immigration on a scale which threatened ultimately to convert the Palestinian Arabs into a political minority.

"... The population in Palestine at the end of the First World War had been 93 per cent Arab and 7 per cent Jewish, but the insidious form of aggression ... had raised the Jewish population to 33 per cent.

"It had been said that the persecution of the European Jews gave them a claim to unlimited immigration into Palestine. It had also been stated that the Jews themselves passionately desired to go to Palestine and were unwilling to be absorbed into any other country ... One asked whether the desire of persecuted Jewry was to be the deciding factor in the situation, and whether the immigration laws of various States should give way to the desire of the displaced persons to enter particular countries or areas. It was questionable whether any other country would be prepared to permit unrestricted immigration for such reasons ...

"It had been said that the Jews were determined not to accept the position of a political minority in Palestine, but the unwillingness of a minority in any country to continue to occupy that position was not a valid reason for converting a minority into a majority and a majority into a minority. It would be contended that it was for that very reason that partition had been advanced as a solution; but in examining the majority solution it would be found that in more than half the area of the country the Arabs were to be converted into a minority, in order that the Jewish population might become a politically dominant Jewish State ...

"... (in) a letter published in the New York times on 28 September 1947 by Dr. Magnes, President of the Hebrew University of Jerusalem ... criticizing the majority plan, Dr. Magnes had said that partition would not stop the terrorist activities of Jewish groups, and that having secured partition through terror, they would attempt to secure the rest of the country for the Jews in the same way ..." 48/

At the end of the general discussion the Chairman proposed the appointment of two sub-committees to report on the two proposals before the Ad Hoc Committee and a third sub-committee to try to promote conciliation between the Arab and Zionist positions, the last sub-committee to be informal. The Syrian representative proposed another sub-committee:

"... to be composed of jurists which would deal with the question of the competence of the General Assembly to take and enforce a decision, and with the legal aspect of the Mandate. If that Sub-Committee's report were unsatisfactory, then the question of reference of the whole matter to the International Court of Justice could be discussed ..." 49/

The Chairman discouraged this proposal as it would prolong the Committee's work, and the composition of the two sub-committees was decided as follows:

Sub-Committee No. 1: Canada, Czechoslovakia, Guatemala, Poland, South Africa, USSR, United States, Hungary, Venezuela.

Sub-Committee No. 2: Afghanistan, Colombia, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Yemen.

The two Sub-Committees met for four weeks in late 1947. Sub-Committee 1, after intensive discussions over the date of independence and the form and extent of United Nations control during transition, made the following significant changes in the Special Committee's majority plan in order to conform to certain decisions insisted upon by Great Britain:

(a) The proposed two-year transition period was drastically reduced. Great Britain would withdraw by 1 August 1948 until which date the British Government would continue to govern Palestine, not being responsible for implementation of any United Nations decisions and retaining full discretion over the extent of co-operation with the United Nations. A two-month transition period would follow, with Palestine being governed by a United Nations Commission (of five members) selected by the General Assembly and responsible to the Security Council. The two States would attain independence on 1 October 1948.

(b) The Arab city of Jaffa, allotted by the Special Committee to the Jewish State, would form an Arab enclave in Jewish territory, and be linked to the Arab State.

The question of the southern half of Palestine, the Negev, the entirety of which had been allotted to the Jewish State by the Special Committee majority plan was also re-examined. A proposal was made to divide it between the Arab and Jewish States. Zionist leaders were particularly anxious that the entire Negev, with its access to the Gulf of Akaba, lie within their control. Weizmann describes how the problem was dealt with:

> "There were many tense moments preceding the final decision on November 29, and these had to do not only with the probable votes of the delegates. There was, for instance, the actual territorial division. When this was discussed some of the American delegates felt that the Jews were getting too large a slice of Palestine, and that the Arabs might legitimately raise objections. It was proposed to cut out from the proposed Jewish State a considerable part of the Negev, taking Akaba away from us. Ever since the time of the Balfour Declaration, I had attached great value to Akaba ... Akaba is the gate to the Indian Ocean, and constitutes a much shorter route from Palestine to the Far East than via Port Said and the Suez Canal.
>
> "I was somewhat alarmed when I learned, in the second week of November, that the American delegation, in its desire to find a compromise which would be more acceptable to the Arabs, advocated the excision of the southern part of the Negev, including Akaba. After consultation with members of the Jewish Agency Executive, I decided to go to Washington to see President Truman and to put the whole case before him.

"... I pleaded further with the President that if the Egyptians choose to be hostile to the Jewish State, which I hope will not be the case, they can close navigation to us through the Suez Canal when this becomes their property, as it will in a few years. The Iraqis, too, can make it difficult for us to pass through the Persian Gulf. Thus we might be cut off entirely from the Orient ... I was extremely happy to find that the President read the map very quickly and very clearly. He promised me that he would communicate at once with the American delegation at Lake Success." 50/

The reports of the two Sub-Committees were presented to the Ad Hoc Committee on 24 November 1947 in a highly charged atmosphere. The report of Sub-Committee 2 (voted on before the report of Sub-Committee 1) detailed the arguments for a unified Palestine, addressing the legal question of the competence of the United Nations to partition the country:

"A study of Chapter XII of the United Nations Charter leaves no room for doubt that ... neither the General Assembly nor any other organ of the United Nations is competent to entertain, still less to recommend or enforce, any solution with regard to a mandated territory ...

"... the General Assembly is not competent to recommend, still less to enforce any solution other than the recognition of the independence of Palestine, and that the settlement of the future government of Palestine is a matter solely for the people of Palestine ...

"To sum up, the dissolution of the League of Nations, and the consequent removal of the legal basis for the Mandate, and the more recent declarations by the Mandatory of its intention to withdraw from Palestine, open the way for the establishment of an independent government in Palestine by the people of the country, without the intervention either of the United Nations or of any other party ...

"The above conclusion is by no means vitiated by the provisions for the establishment of a Jewish national home in Palestine. It was not, and could not have been the intention of the framers of the Mandate that the Jewish immigration to Palestine should result in breaking up the political, geographic, and administrative economy of the country. Any other interpretation would amount to a violation of the principles of the Covenant and would nullify one of the main objectives of the Mandate ...

"Moreover, partition involves the alienation of territory and the destruction of the integrity of the State of Palestine. The United Nations cannot make a disposition or alienation of territory, nor can it deprive the majority of the people of Palestine of their territory and transfer it to the exclusive use of a minority in the country ..." 51/

The report's first resolution, questioning the legal power of the General Assembly to partition Palestine was rejected. The second, recommending international co-operation to deal with the Jewish refugee problem was rejected too, but the Ad Hoc Committee decided to include the recommendation in its report to the General Assembly. The third, calling for the establishment of an independent unified Palestine was also rejected.

The report of Sub-Committee 1, in substance the amended the Special Committee's majority recommendations for the partition of Palestine, was then voted upon on 25 November 1947. The vote was 25 votes to 13 with 17 abstentions.* Since a two-thirds majority was not required in the Assembly sitting as Ad Hoc Committee, the proposal to partition Palestine was approved and recommended to the General Assembly.

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* In favour: Australia, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Canada, Chile, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Guatemala, Iceland, Nicaragua, Norway, Panama, Peru, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela.

Against: Afghanistan, Cuba, Egypt, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Siam, Syria, Turkey, Yemen.

Abstaining: Argentina, Belgium, China, Colombia, El Salvador, Ethiopia, France, Greece, Haiti, Honduras, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, United Kingdom, Yugoslavia.

Absent: Paraguay, Philippines.

IV. THE PARTITION OF PALESTINE

The vote of the General Assembly was to be a final act to endorse formally what it had already decided as the Ad Hoc Committee: the partition of Palestine. To validate that decision in the plenary, however, a two-thirds majority was essential. As the crucial decision approached, the contending spokesmen took the last opportunity to press their arguments, every vote being critical, particularly in view of the relatively large number of abstentions in the final vote in the Ad Hoc Committee:

In presenting the Committee's report recommending partition, the Rapporteur noted that the informal conciliation group had produced no results since;

> "... both parties were confident as to the success of their case before the General Assembly and, therefore ... conciliation and agreement between the parties could not be reached." 52/

The Mandatory's position

The British Government, its mandate over Palestine now due to expire in a matter of months, restated its position:

> "It is with deep regret that my Government recognizes that an acceptable settlement has still not been found. I do not say that in any spirit of criticism. My Government would be the last to minimize the difficulty of the task, as it is the first to appreciate the efforts that have been made. The fact remains that we are obviously confronted with a failure to arrive at a settlement based upon consent. My delegation would have failed in its duty if it had not emphasized from the beginning of the session the consequent need for the General Assembly to consider the situation which is likely to arise upon the removal of the forces which at present ensure law and order in Palestine. Their departure will leave a gap, and it has been the most difficult part of the General Assembly's task to find means of filling this gap ...
>
> "... I am ... instructed to repeat explicitly that the United Kingdom Government cannot allow its troops and administration to be used in order to enforce decisions which are not accepted by both parties in Palestine ..." 53/

The debate on partition

In the general discussion, the States supporting the partition plan argued that it was the best available formula to deal with political realities in Palestine, and to deal with the problem of Jewish refugees in Europe, stressing that they could see no alternative. The States opposing the partition of Palestine questioned the legal competence of the United Nations to take this drastic measure, asserting that it violated the principle of self-determination by denying it to the Palestinian people, and also infringed Article 6 of the Mandate which stipulated that "the rights and position of other (than Jewish) sections of the population are not prejudiced". These States further charged that interested Powers were using political pressure to gather the votes for the two-thirds majority required. Some excerpts from representative statements are given to convey an impression of the prevailing mood in this critical Assembly.

States supporting the partition plan:

Poland

"... What is the solution we want? The answer is simple. The Arab people of Palestine, as well as the Jewish people of Palestine, want national independence. They want a discontinuation of the Mandate and of the present situation, and the establishment of their national States.

"My delegation and my Government believed for a time, and hoped, that these national aspirations might find their expression in one Palestinian State in which both Arabs and Jews would be equal partners, free to develop their national life. The situation, however, is such that this aim cannot be achieved, at least not at the present stage. We therefore have to establish two States, an Arab State and a Jewish State, to provide for the national aspirations of the two communities which live in Palestine. There is no other way out, and anyone anxious to do justice to the national aspirations of both Jews and Arabs must support this proposal ..." 54/

Brazil

"... the matter involves substantial changes in the political status quo of an important region, changes which would radically affect juridical principles and vested interests.

"It is presented to us today, however, as a fait accompli, since the promise contained in the so-called Balfour Declaration and the subsequent creation of a mandate of the League of Nations with the express purpose of constituting a "Jewish national home", have resulted in the migration into Palestine of considerable numbers of individuals of the Jewish race, who have become permanently established there and have created large interests and have constituted a homeland which has rapidly developed to the point of presenting at this time the characteristics of a State ..." 55/

United States

"... the proposal of partition with economic union which we are considering is genuinely a United Nations plan. It has been evolved as a result of a special session of the United Nations and the work of a United Nations Special Committee, in addition to the work of the present session of the General Assembly ...

"Much has been said during the course of these debates on the desirability and necessity of presenting to the General Assembly a plan which would command the agreement of both the principal protagonists in this situation. I think there is no delegation here which does not know that no plan has ever been presented, either to this Assembly or to the Mandatory Government during its long years of tenure, or in any other place, which would meet with the acceptance of both the Arabs and the Jews. No such plan has ever been presented, and I do not believe that any such plan will ever be presented. If we are to effect through the United Nations a solution of this problem it cannot be done without the use of the knife. Neither the Jews nor the Arabs will ever be completely satisfied with anything we do, and it is just as well to bear that in mind.

"... It is the sincere belief of the United States delegation that the partition plan recommended by the Ad Hoc Committee on the Palestinian Question, with all its imperfections admitted, provides for the people of Palestine in that land the best practicable means at the present time by which these high objectives may be obtained ..." 56/

USSR

"... We may ask why it is that the overwhelming majority of the delegations represented in the General Assembly adopted this solution and not another. The only explanation ... that can be given is that all the alternative solutions of the Palestinian problem were found to be unworkable and impractical. In stating this, I have in mind the project of creating a single independent Arab-Jewish State with equal rights for Arabs and Jews. The experience gained from the study of the Palestinian question, including the experience of the Special Committee, has shown that Jews and Arabs in Palestine do not wish or are unable to live together. The logical conclusion followed that, if these two peoples that inhabit Palestine, both of which have deeply rooted historical ties with the land, cannot live together within the boundaries of a single State, there is no alternative but to create, in place of one country, two States - an Arab and a Jewish one. It is, in the view of our delegation, the only workable solution ..." 57/

States opposing the partition plan:

Philippines

"... The Philippine Government has come to the conclusion that it cannot give its support to any proposal for the political disunion and the territorial dismemberment of Palestine.

We have assessed the legal arguments and found that they are not the decisive factors in shaping a just and practical solution. Whatever the weight we might choose to assign to the arguments of the one side or the other, it is clear to the Philippine Government that the rights conferred by mandatory power, even if subsequently confirmed by an international agreement, do not vitiate the primordial right of a people to determine the political future and to preserve the territorial integrity of its native land.

We hold that the issue is primarily moral. The issue is whether the United Nations should accept responsibility for the enforcement of a policy which, not being mandatory under any specific provision of the Charter nor in accordance with its fundamental principles, is clearly repugnant to the valid nationalist aspirations of the people of Palestine. The Philippine Government believes that the United Nations ought not to accept any such responsibility ..." 58/

Lebanon

"... To judge by the press reports which reach us regularly every two or three days, I can well imagine to what pressure, to what manoeuvres your sense of justice, equity and democracy has been exposed during the last 36 hours. I can also imagine how you have resisted all these attempts in order to preserve what we hold dearest and most sacred in the United Nations, to keep intact

the principles of the Charter, and to safeguard democracy and the democratic methods of our Organization. My friends, think of these democratic methods, of the freedom in voting which is sacred to each of our delegations. If we were to abandon this for the tyrannical system of tackling each delegation in hotel rooms, in bed, in corridors and ante-rooms, to threaten them with economic sanctions or to bribe them with promises in order to compel them to vote one way or another, think of what our Organization would become in the future. Should we be a democratic organization? Should we be an organization worthy of respect in the eyes of the world? At this supreme juncture, I beg you to think for a moment of the far-reaching consequences which might result from such manoeuvres, especially if we yielded to them ..." 59/

Colombia

"... The plan of partition was adopted by the Ad Hoc Committee by 25 votes to 13 with 17 abstentions. We hear and we read that the same vote in the General Assembly would be one short of the two-thirds majority required by our rules. However, in our view, there is no mistaking the fact that the plan has failed to find the support of 32 delegations. In other words, as it stands, it is really a minority proposal. It will remain a minority proposal in our minds. It will not lose that character even if it succeeds in securing the votes of three or four more delegations; and the scanty strength of the proposal becomes all the more evident if we consider the great international importance of the problem and the distinction that this solution enjoys of having the joint backing of the United States and the USSR. It would seem to all unprejudiced observers that, but for that all-powerful backing, the proposal would never have made its way to the General Assembly. Here it may eventually be adopted, but we submit that reluctant votes, recruited with irrelevant eleventh-hour appeals, will not improve its position in the opinion of the outside world ...

"Under the circumstances, we suggest that the General Assembly would be well advised in postponing a decision ..." 60/

Pakistan

"... How is Palestine to be independent? What sort of independence? What is the solution that we are invited to endorse and to attempt to carry through? In effect, the proposal before the United Nations General Assembly says that we shall decide - not the people of Palestine, with no provision for the self-determination, no provision for the consent of the governed - what type of independence Palestine shall have. We shall call Palestine independent and sovereign, but Palestine shall belong to us and shall be, not the apple of our many and in different-direction-looking eyes, but shall become the apple of discord between East and West, lest, perchance, the unity which our name so wistfully proclaims may have a chance to establish itself.

"We shall first cut the body of Palestine into three parts of a Jewish State and three parts of an Arab State. We shall then have the Jaffa enclave; and Palestine's heart, Jerusalem, shall forever be an international city. That is the beginning of the shape Palestine shall have.

"Having cut Palestine up in that manner, we shall then put its bleeding body upon a cross forever. This is not going to be temporary; this is permanent. Palestine shall never belong to its people; it shall always be stretched upon the cross.

"What authority has the United Nations to do this? What legal authority, what juridical authority has it to do this, to make an independent State forever subject to United Nations administration? ...

"Our vote today, if it does not endorse partition, does not rule out other solutions. Our vote, if it endorses partition, bars all peaceful solution. Let him who will shoulder that responsibility. My appeal to you is: do not shut out that possibility. The United Nations should seek and strive to unite and bring together rather than to divide and put asunder ..." 61/

Eleven delegations had declared support of the partition plan:

Belgium, Brazil, Canada, Guatemala, Netherlands, New Zealand, Poland, Sweden, USSR, United States, Uruguay.

Thirteen delegations had spoken opposing the proposal:

Colombia, Cuba, Egypt, Greece, Haiti, Iran, Iraq, Lebanon, Pakistan, Philippines, Saudi Arabia, Syria, Yemen.

France had taken a non-committal position. Great Britain, as the Mandatory Power, had declared its intention to abstain, as had China and Ethiopia.

After last minute efforts by States opposing the plan to adjourn the Assembly or refer the question to the International Court of Justice, the partition plan was finally voted upon on 29 November 1947. It received 33 votes in favour and 13 against with 10 abstentions:

In favour: Australia, Belgium, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Guatemala, Haiti, Iceland, Liberia, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela.

Against: Afghanistan, Cuba, Egypt, Greece, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, Yemen.

Abstained: Argentina, Chile, China, Colombia, El Salvador, Ethiopia, Honduras, Mexico, United Kingdom, Yugoslavia. 62/

The Arab States, as well as several others, declared that they would not consider themselves bound by the General Assembly recommendation since they considered that it was contrary to the United Nations Charter. Others voiced apprehension over the future implications of the vote to partition Palestine. An excerpt from a statement conveying the mood of the hour follows:

"A fateful decision has been taken. The die has been cast. In the words of the greatest American, 'We have striven to do the right as God gives us to see the right'. We did succeed in persuading a sufficient number of our fellow representatives to see the right as we saw it, but they were not permitted to stand by the right as they saw it. Our hearts are sad but our conscience is easy. We would not have it the other way round. ..."

"No man can today predict whether the proposal which these two great countries had sponsored and supported will prove beneficient or the contrary in its actual working.

"We much fear that the beneficence, if any, to which partition may lead will be small in comparison to the mischief which it might inaugurate. It totally lacks legal validity. We entertain no sense of grievance against those of our friends and fellow representatives who have been compelled, under heavy pressure, to change sides and to cast their votes in support of a proposal the justice and fairness of which do not commend themselves to them. Our feeling for them is one of sympathy that they should have been placed in a position of such embarrassment between their judgement and conscience, on the one side, and the pressure to which they and their Governments were being subjected on the other." 63/

The provisions of the Partition resolution

The resolution of the General Assembly to partition Palestine, identified as resolution 181 (II), in effect constituted a recommendation "to the United Kingdom, as the Mandatory Power, and to all other Members of the United Nations the adoption and implementation, with regard to the future government of Palestine, of the Plan of Partition with Economic Union ...", requesting the Security Council to "undertake the necessary measures as provided in the plan for its implementation ..."

Palestine was to be divided into an un-named "Jewish State" and an un-named "Arab State". Great Britain was to withdraw its presence by 1 August 1948, however making available by 1 February 1948 to the Jewish State an area including a seaport to facilitate "substantial immigration". During the transitional period beginning in November 1947, the United Nations would progressively take over the administration in the entire territory, to be exercised through a Commission, and power handed over to the two States on the day of independence, not later than 1 October 1948. The two States were to be linked in an economic union.

The territory of Palestine was divided into eight parts. Three were allotted to the Jewish State, three to the Arab State. The seventh, Jaffa, was to form an Arab enclave in Jewish territory (annex I).

The eighth part was to be Jerusalem as a corpus separatum under a special international régime. This was to be administered by the United Nations Trusteeship Council for an initial period of 10 years, at the end of which the scheme would be re-examined by the Council, and "the residents of the city shall then be free to express by means of a referendum their wishes as to possible modification of the régime of the City".

The safeguards for the status of Jerusalem were in the following terms:

"Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired.

"In so far as Holy Places are concerned, the liberty of access, visit and transit shall be guaranteed, in conformity with existing rights, to all residents and citizens of the other State and of the City of Jerusalem, as well as to aliens, without distinction as to nationality subject to the maintenance of public order and decorum.

"Holy Places and religious buildings or sites shall be preserved. No act shall be permitted which may in any way impair their sacred character ..."

The rationale for this patchwork territorial division was to ensure that the Jewish State encompassed the maximum number of Jews and reduced to the minimum (estimated about 10,000), those who would be left in the Arab State. But within the boundaries of the Jewish State there would remain a very large number of Palestinian Arabs: 497,000 (including 90,000 Bedouin) against 498,000 Jews. 64/

"The partition resolution contained detailed safeguards to ensure the rights of minorities, including:

"Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all.

"No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex.

"All persons within the jurisdiction of the State shall be entitled to equal protection of the laws.

"The family law and personal status of the various minorities and their religious interests, including endowments, shall be respected ...

"The State shall ensure adequate primary and secondary education for the Arab and Jewish minority, respectively, in its own language and its cultural traditions ...

"The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the State may impose, shall not be denied or impaired ...

"No expropriation of land owned by an Arab in the Jewish State (by a Jew in the Arab State) shall be allowed except for public purposes. In all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dispossession ..."

Freedom of movement and transit was also to be assured by both States.

The safeguards for the status of Jerusalem and for the right of minorities were to possess the status of constitutional provisions in each State:

"A declaration shall be made to the United Nations by the provisional government of each proposed State before independence; ...

"The stipulations contained in the declaration are recognized as fundamental laws of the State and no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them".

V. THE END OF THE MANDATE AND THE ESTABLISHMENT OF ISRAEL

The situation in Palestine

The United Nations partition resolution did not provide a solution to the Palestine problem, and violence increased. In protest against the partition of their country, the Palestinian Arab Higher Committee called for a general strike. Palestinian-Jewish clashes proliferated with Jewish paramilitary forces operating more freely as British forces started their withdrawal. Sabotage, attacks on military installations and the capture of British arms by these groups became a major feature of the Palestinian scene, along with a proliferation of Jewish-Arab clashes. With events moving towards a major armed confrontation, Great Britain announced that it would terminate the Mandate on 15 May 1948, several months before the time envisaged in the United Nations plan.

The Security Council could not take any effective decision after discussing General Assembly resolution 181 (II) (the partition resolution) in December 1947. In March 1948 the United States draft proposal to enable the Council to act on the partition resolution failed, and the Council only called for an end to the violence in Palestine. Under the pressure of rapidly moving developments, the partition resolution did not even reach the stage of routine reference to the Sixth Committee for an examination of its legal effects and implications. The United Nations Commission on Palestine, established by resolution 181 (II), could not move to Jerusalem, and only could hold consultations in New York. The formation of the armed militia, intended to assist the Commission in its functions in Palestine, became impracticable in the face of the accelerated British withdrawal in a deteriorating situation where the casualty toll in the first three months after the approval of the partition resolution was 869 dead and 1,909 injured. 65/

Zionist policies of territorial expansion

As the British Government progressively disengaged from Palestine, and the United Nations was unable to replace it as an effective governing authority, the Zionist movement moved to establish control over the territory of the nascent Jewish State. At the same time the bordering Arab States made clear that they would intervene.

From writings of Zionist leaders, it is evident that Zionist policy was to occupy, during the period of withdrawal, as much territory as possible (including the "West Bank") beyond the boundaries assigned to the Jewish State by the partition resolution. A comprehensive military plan, called Plan "D" (or Dalet) was described by an Israeli official:

> "In March 1948, Haganah High Command prepared a comprehensive operational Plan 'D', replacing plans 'A', 'B' and 'C' which had governed Haganah strategy in previous years. Zero hour for Plan D was to arrive when British evacuation had reached a point where the Haganah would be reasonably safe from British intervention and when mobilization had progressed to a point where the implementation of a large-scale plan would be feasible. The mission of Haganah was as simple as it was revolutionary: 'To gain control of the area allotted to the Jewish State and defend its borders, and those of the blocs of

Jewish settlements and such Jewish population as were outside those borders, against a regular or pararegular enemy operating from bases outside or inside the area of the Jewish State'". 66/

Begin writes:

"In the months preceding the Arab invasion, and while the five Arab States (Egypt, Iraq, Syria, Lebanon and Transjordan) were conducting preparations for concerted aggression, we continued to make sallies into the Arab area. In the early days of 1948, we were explaining to our officers and men, however, that this was not enough. Attacks of this nature carried out by any Jewish forces were indeed of great psychological importance, and their military effect, to the extent that they widened the Arab front and forced the enemies on to the defensive, was not without value. But it was clear to us that even most daring sallies carried out by partisan troops would never be able to decide the issue. Our hope lay in gaining control of territory.

"At the end of January, 1948, at a meeting of the Command of the Irgun in which the Planning Section participated, we outlined four strategic objectives: (1) Jerusalem; (2) Jaffa; (3) the Lydda-Ramleh plain; and (4) the Triangle.

"Setting ourselves these objectives we knew that their achievement would be dependent on many factors but primarily on the strength in men and arms that we would have at our disposal. We consequently decided to treat the plans as 'alternatives': we would carry out what we could. As it happened, of the four parts of the strategic plan we executed only the second in full.

"In the first and third parts we were able to record important achievements on the battlefield - but we did not attain decisive victories.

"As for the fourth part, we were never allowed an opportunity even to begin to put the plan into operation. The conquest of Jaffa, however, stands out as an event of first-rate importance in the struggle for Hebrew independence."

(The "Triangle" is explained as "the generally used name for the Arab-populated area in the centre of western Eretz Yisrael lying roughly in a triangle whose points are the towns of Nablus, Jenin and Tulkarim and comprising the bulk of the non-desert area west of Jordan which is now outside the State of Israel".) 67/

Ben-Gurion writes:

"... Field troops and Palmach in particular were thus deployed and quickly showed the mettle that was soon to animate our army and bring it victory.

"... New Jerusalem was occupied, and the guerrillas were expelled from Haifa, Jaffa, Tiberias, Safad while still the Mandatory was present. It needed sagacity and self-control not to fall foul of the British army. The Hagana did its job; until a day or two before the Arab invasion not a settlement was lost, no road cut, although movement was seriously dislocated, despite express assurances of the British to keep the roads safe so long as

they remained. Arabs started fleeing from the cities almost as soon as disturbances began in the early days of December 1947. As fighting spread, the exodus was joined by bedouin and fellahin, but not the remotest Jewish homestead was abandoned and nothing a tottering Administration (meaning the British Mandatory) could unkindly do stopped us from reaching our goal on May 14, 1948 in a State made larger and Jewish by the Haganah ..." 68/

The first Palestinian exodus

This territorial expansion by the use of force resulted in a large-scale exodus of refugees from the areas of hostilities. Palestinians allege that this was part of a deliberate policy to displace Palestinian Arabs to make room for immigrants, and quote Zionist sources, including Herzl:

"We shall try to spirit the penniless population across the border by procuring employment for it in the transit countries, while denying it any employment in our own country.

"Both the process of expropriation and the removal of the poor must be carried out discreetly and circumspectly". 69/

Herzl's plans in respect of the size of the Jewish State are cited as another item of evidence of this policy. Describing a 1939 meeting with Churchill, Weizmann writes:

"... (I) thanked him for his unceasing interest in Zionist affairs. I said: 'You have stood at the cradle of the enterprise. I hope you will see it through'. Then I added that after the war we would want to build up a State of three or four million Jews in Palestine. His answer was: 'Yes, I quite agree with that'." 70/

Palestinians also charge that the terrorizing of the civilian population through military or psychological means was an integral part of this policy of expelling Palestinians, and again cite Zionist writings:

"... Between ourselves it must be clear that there is no room for both peoples together in this country ... We shall not achieve our goal of being an independent people with the Arabs in this small country. The only solution is a Palestine, at least western Palestine (west of the Jordan river) without Arabs ... And there is no other way than to transfer the Arabs from here to the neighbouring countries, to transfer all of them; not one village, not one tribe, should be left ... Only after this transfer will the country be able to absorb the millions of our own brethren. There is no other way out ..." 71/

One of the most notorious cases of the terrorizing of civilian population occurred, according to Palestinian and other sources, in April 1948 at Deir Yassin, a village near Jerusalem, situated in territory assigned to the Jewish State by the partition resolution. A former Israeli military governor of Jerusalem writes:

"We suffered a reverse of a different nature on April 9 when combined Etzel and Stern Gang units mounted a deliberate and unprovoked attack on the Arab village of Deir Yassin on the western edge of Jerusalem. There was no reason for the attack. It was a quiet village, which had denied entry to the volunteer Arab units from across the frontier and which had not been involved

in any attacks on Jewish areas. The dissident groups chose it for strictly political reasons. It was a deliberate act of terrorism ...

"... Women and children had not been given time enough to evacuate the village, although warned to do so by loudspeaker, and there were many of them among the 254 persons reported by the Arab Higher Committee as killed.

"The event was a disaster in every way. The dissidents held the village for two days and then abandoned it. They earned the contempt of most Jews in Jerusalem, and an unequivocal public repudiation by the Jewish Agency. But they gave the Arabs a strong charge against us, and the words 'Deir Yassin' were used over and over again both to justify their own atrocities and to persuade Arab villagers to join the mass flight which was now taking place all over Palestine." 72/

Other Zionist leaders deny the charges, making this a controversial case. Begin writes:

"The enemy propaganda was designed to besmirch our name. In the result it helped us. Panic overwhelmed the Arabs of Eretz Yisrael ... the Arabs began to flee in terror, even before they clashed with Jewish forces. Not what happened in Deir Yassin, but what was invented about Deir Yassin, helped to carve the way to our decisive victories on the battlefield. The legend of Deir Yassin helped us in particular in the conquest of Haifa ... All the Jewish forces proceeded to advance through Haifa like a knife through butter. The Arabs began fleeing in panic, shouting: 'Deir Yassin!'" 73/

Whatever the versions of this controversial case, the psychological effect of such incidents was a mass exodus of the civilian population.

The psychological tactics used are described by Yigal Allon:

"I gathered all the Jewish mukhtars, who have contact with Arabs in different villages, and asked them to whisper in the ears of some Arabs, that a great Jewish reinforcement has arrived in Galilee and that it is going to burn all of the villages of the Huleh. They should suggest to these Arabs, as their friends, to escape while there is still time. And the rumour spread in all the areas of the Huleh that it is time to flee. The flight numbered myriads. The tactic reached its goal completely. The building of the police station at Halsa fell into our hands without a shot. The wide areas were cleaned, the danger was taken away from the transportation routes and we could organize ourselves for the invaders along the borders, without worrying about the rear". 74/

The terror that spread among the Palestinian population was a crucial factor affecting developments in Palestine. It led to a mass exodus of refugees into neighbouring countries. The number of Palestinian refugees resulting from these hostilities were estimated to number 726,000 75/ by the end of 1949 - half the indigenous population of Palestine. Charges that their flight had been incited by Arab leaders is refuted by a United Nations report noting that the refugees either fled from the war or were expelled:

"As a result of the conflict in Palestine, almost the whole of the Arab population fled or was expelled from the area under Jewish occupation".

"... an alarming number of persons have been displaced from their homes. Arabs form the vast majority of the refugees in Palestine and the neighbouring countries. The future of these Arab refugees is one of the questions under dispute, the solution of which presents very great difficulties ...

"The majority of these refugees have come from territory which, under the Assembly resolution of 29 November, was to be included in the Jewish State. The exodus of Palestinian Arabs resulted from panic created by fighting in their communities, by rumours concerning real or alleged acts of terrorism, or expulsion ..." 76/

The end of the mandate and the birth of Israel

As the hostilities in Palestine escalated, efforts intensified in the United Nations to find ways to stop the violence. A United States proposal to place Palestine under temporary United Nations trusteeship met strong opposition from Zionist leaders, who saw in it a possibility of a reversal of the partition decision. A move to negotiate a truce was similarly opposed. Weizmann describes this stage as follows:

"... In Washington it was already being taken for granted that, in deference to the 'facts', a fundamental revision would have to take place, and the November decision, if not actually reversed, deferred - perhaps *sine die* ...

"Under these circumstances I obtained an interview with the President of the United States ... The President was sympathetic personally, and still indicated a firm resolve to press forward with partition. I doubt, however, whether he was himself aware of the extent to which his own policy and purpose had been balked by subordinates in the State Department ... the United States representative in the Security Council announced the reversal of American policy. He proposed that the implementation of partition be suspended, that a truce be arranged in Palestine, and that a special session of the General Assembly be called in order to approve a trusteeship for Palestine, to take effect when the Mandate ended, i.e., on May 15th. In spite of all the forewarnings, the blow was sudden, bitter and, on the surface, fatal to our long nurtured hopes ...

"It had been anticipated that the trusteeship plan would be adopted without difficulty; but within the two months since its proposal, the situation had again altered radically ...

"... When it became clear in the Assembly that the trusteeship plan could not be adopted, another delaying formula was devised - a 'temporary truce': both parties were to cease fire, no political decision was to be taken, a limited Jewish immigration was to be permitted for a few months, and in exchange for this transient and dubious security the Jews were to refrain from proclaiming their State in accordance with the November decision ...

"On the issue of this truce, as on that of the trusteeship, I was never in a moment's doubt. It was plain to me that retreat would be fatal. Our only chance now, as in the past, was to create facts, to confront the world with these facts, and to build on their foundation ..." 77/

Israel declared its independence on 14 May 1948. The departure of the British High Commissioner the next day ceremonially signalled the end of the Mandate.

The declaration establishing the State of Israel traces the route of recent history that had brought it into existence:

> "... In the year 5657 (1897), at the summons of the spiritual father of the Jewish State, Theodore Herzl, the first Zionist Congress convened and proclaimed the right of the Jewish people to national rebirth in its own country.
>
> "This right was recognized in the Balfour Declaration of 2nd November 1917, and reaffirmed in the Mandate of the League of Nations which, in particular, gave international sanction to the historic connexion between the Jewish people and Eretz Yisrael and to the right of the Jewish people to rebuild its national home.
>
> "The catastrophe which recently befell the Jewish people - the massacre of millions of Jews in Europe - was another clear demonstration of the urgency of solving the problem of its homelessness by re-establishing in Eretz Yisrael the Jewish State, which would open the gates of the homeland wide to every Jew and confer upon the Jewish people the status of a fully privileged member of the comity of nations ...
>
> "On the 29th November 1947, the United Nations General Assembly passed a resolution calling for the establishment of a Jewish State in Eretz Yisrael; the General Assembly required the inhabitants of Eretz Yisrael to take such steps as were necessary on their part for the implementation of that resolution. This recognition by the United Nations of the right of the Jewish people to establish their State is irrevocable.
>
> "This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State ..." 78/

During the months preceding the end of the Mandate, Jewish forces had moved to occupy key cities and areas in the territory designated for the Arab State. Ben-Gurion writes that before the Mandate ended:

> "... no Jewish settlement, however remote, was entered or seized by the Arabs, while the Haganah ... captured many Arab positions and liberated Tiberias and Haifa, Jaffa and Safad ... So, on the day of destiny, that part of Palestine where the Haganah could operate was almost clear of Arabs". 79/

The major part of Jerusalem meant to be internationalized under the partition plan, had also been occupied by Jewish forces.

On the termination of the Mandate, Jewish forces moved to occupy further territory beyond the boundaries specified by the Partition resolution. Irregular units from neighbouring Arab States had already entered Palestine in the final weeks of the Mandate, and now regular forces from these countries crossed into Palestine. The Arab League informed the United Nations Secretary-General by cable of the reasons for the Arab action. After tracing the history of the Palestine question and the efforts of the Arab States to help the Palestinian Arabs to secure their rightful independence, the cable stated:

"Now that the Mandate over Palestine has come to an end, leaving no legally constituted authority behind in order to administer law and order in the country and afford the necessary and adequate protection to life and property, the Arab States declare as follows:

"(a) The right to set up a Government in Palestine pertains to its inhabitants under the principles of self-determination recognized by the Covenant of the League of Nations as well as the United Nations Charter;

"(b) Peace and order have been completely upset in Palestine, and, in consequence of Jewish aggression, approximately over a quarter of a million of the Arab population have been compelled to leave their homes and emigrate to neighbouring Arab countries. The prevailing events in Palestine exposed the concealed aggressive intentions of the Zionists and their imperialistic motives ...

"(c) The Mandatory has already announced that on the termination of the Mandate it will no longer be responsible for the maintenance of law and order in Palestine ... This leaves Palestine absolutely without any administrative authority ...

"...

"(e) ... The recent disturbances in Palestine further constitute a serious and direct threat to peace and security within the territories of the Arab States themselves. For these reasons, and considering that the security of Palestine is a sacred trust for them, and out of anxiousness to check the further deterioration of the prevailing conditions and to prevent the spread of disorder and lawlessness into the neighbouring Arab lands, and in order to fill the vacuum created by the termination of the Mandate and the failure to replace it by any legally constituted authority, the Arab Governments find themselves compelled to intervene for the sole purpose of restoring peace and security and establishing law and order in Palestine.

"The Arab States recognize that the independence and sovereignty of Palestine which was so far subject to the British Mandate has now, with the termination of the Mandate, become established in fact, and maintain that the lawful inhabitants of Palestine are alone competent and entitled to set up an administration in Palestine for the discharge of all governmental functions without any external interference. As soon as that stage is reached for the intervention of the Arab States, which is confined to the restoration of peace and establishment of law and order, shall be put an end to, and the sovereign State of Palestine will be competent in co-operation with the other States members of the Arab League, to take every step for the promotion of the welfare and security of its peoples and territory ..." 80/

The fighting between the Arab forces on one hand and what were now Israeli forces on the other escalated into the first Middle East War. The Israeli forces were well manned and well trained, drawing on the Jewish Brigade formed during the Second World War, and on the various armed groups such as the Haganah, the Palmach, and the Irgun. They were well equipped with arms acquired within and without Palestine during the Mandate period. The intervention by the Arab States in

support of the "Arab State" in Palestine proved largely ineffective in the face of decisive Israeli military superiority. Within weeks, Israel had occupied most of the territory of Palestine, with the exception of the "West Bank" of the Jordan, held by the Arab Legion from Jordan and the Gaza Strip, held by Egyptian forces (map at annex II.) But for these exceptions, Israel now controlled virtually the entire territory claimed by the Zionist Movement at the Paris Peace Conference in 1919 as the "Jewish national home".

VI. PALESTINE AND THE UNITED NATIONS - 1948-1967

The United Nations by 1948 was inextricably involved in the Palestine question. It now bore the responsibility for the international commitments to the inalienable rights of the Palestinian people which had not been assured during the Mandate, and which now were constrained by the partition resolution. Facing a threat to peace, unprecedented in the two years of the United Nations existence, and which the first two special sessions of the General Assembly had not been able to resolve, the Security Council ordered a cease-fire on 29 May 1948, by which time Israel had consolidated its occupation of Palestinian territory beyond that allotted to it by the partition plan.

Count Bernadotte, appointed United Nations Mediator by the General Assembly on the day the Mandate ended, was dispatched to Palestine to supervise the cease-fire and to "promote a peaceful adjustment of the future situation in Palestine". He successfully effected a temporary truce and submitted his first suggestions on Palestine, proposing a "Union comprising two members, one Arab and one Jewish". The plan proposed some territorial adjustment in the borders, return of all refugees, and some limitations on Jewish immigration. 81/ Both sides rejected the plan, Israel particularly objecting to the proposals regarding immi tion.

The Bernadotte proposals

As the first truce expired, the Mediator urged another indefinite truce, which was ordered by the Security Council on 15 July. The findings of the Mediator's mission are summarized from his report:

> "The Arab leaders had become greatly concerned and incensed about the mounting distress among the huge number of Arab refugees. They considered the solution of this problem fundamental to a settlement of the Palestine question. I recognized that, in the Arab States, public opinion on the Palestine question was considerably agitated ...
>
> "... (the talks) ... had made it quite apparent that the Jewish attitude had stiffened in the interval between the two truces, that Jewish demands in the settlement would probably be more ambitious, and that Jewish opinion was less receptive to mediation. A feeling of greater confidence and independence had grown out of Jewish military efforts during the interval between the two truces. Less reliance was placed in the United Nations and there was a growing tendency to criticize its shortcomings with regard to Palestine ..." 82/

The Arab States refused an Israeli offer of direct negotiations, transmitted through the Mediator. Bernadotte concluded that his earlier recommendation of a Union was unworkable. He made new recommendations, based on the premise that the Palestinians and Arabs must accept the existence of Israel.

The new plan envisaged an Arab State encompassing Transjordan joined with most of the territory allotted by the partition resolution to the "Arab State" but with far-reaching territorial adjustments that would consolidate Arab territory by including the Negev, while Galilee would be taken over by Israel. Jerusalem would be placed under United Nations administration. 83/

This plan, too, was rejected both by the Arab States (except Jordan) and by Israel. Bernadotte had proposed other measures but, before the United Nations could act on any of his recommendations, he was assassinated by, in the Israeli official view, the Stern Gang, one of several terrorist organizations whose activities had become more open since the end of the Mandate.

The report to the United Nations of the assassination indicated that the attitude of the Israeli Provisional Government had done little to hinder a press campaign against the Mediator and the United Nations "to the effect that the Mediator was arbitrarily opposed to Jewish claims; and that supervision of (the) truce deliberately discriminated against the interest of Israel". The Stern group's threat that "the task of the moment is to oust Bernadotte ... Blessed be the hand that does it" had not been given any "particular significance" by the Israeli authorities, despite the fact that it emanated from a notoriously violent group. The Israeli Foreign Minister had explained that "the Stern Group ... existed within Israel only as a political organization, having disbanded itself as a military organization, and its members were being absorbed into the army as individuals". Count Bernadotte's killers had been wearing Israeli army uniforms. The report noted that "the Provisional Government of Israel must assume the full responsibility ... for these assassinations ..." 84/

The Security Council requested the Israeli Government to investigate the assassination and to submit a report to the Council, but no report was received.

The Armistice agreements and resolution 194 (III)

The Arab hostility, stemming from the partition resolution, to United Nations involvement in the Palestine question, diminished as Israel increased its military strength and consolidated its occupation of Palestinian territory. The Acting Mediator, Dr. Ralphe Bunche, was able to arrange armistice agreements between Israel on the one hand and Egypt, Jordan, Lebanon and Syria on the other, which were signed between February and July 1949 (map at annex II).

These agreements specified inter alia that the "armistice between the armed forces [was] an indispensable step toward the liquidation of armed conflict and the restoration of peace in Palestine", recognizing "the principle that no military or political advantage should be gained". The agreements "being dictated exclusively by military, and not political, considerations" did not prejudice the political positions of any of the parties on the ultimate settlement of the Palestine question. Thus they gave Israel no legal right to the territories occupied during the 1948 hostilities, beyond the lines specified in the partition resolution.

While in occupation of territories beyond those allotted by the resolution, Israel applied for admission to the United Nations on 29 November 1948. It was criticized in the Security Council for its non-compliance with United Nations resolutions and on 17 December 1948 its application failed, receiving 5 votes in favour, 1 against, with 5 abstentions. 85/

A week earlier, the General Assembly passed another resolution that has become an important document in the Palestine question. Based on the Bernadotte recommendations, resolution 194 (III) (text in annex III) had the following main provisions:

(a) To establish a Conciliation Commission with headquarters at Jerusalem, to continue the functions of the Mediator and the Truce Commission;

(b) To call for Security Council action for the demilitarization of Jerusalem, and for proposals from the Conciliation Commission for a permanent international régime for Jerusalem in view of the distinctive significance for three world religions;

(c) To call for the refugee problem to be dealt with in the following terms:

> "... the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible ..."

The importance of this resolution derives principally from its specific establishment of the right of peaceful return of the Palestinians to their homes (a right that has been reiterated annually by the General Assembly up to the present time).

The Conciliation Commission and the Lausanne protocols

The Conciliation Commission for Palestine was established in January 1949, with France, Turkey and the United States as members. Although the Arab States had voted against the resolution, and still refused direct negotiations with Israel, they co-operated with the Commission since it offered the only hope of dealing with the return of refugees and of obtaining Israeli withdrawal to the partition lines, including from Jerusalem. Israel, however, in defiance of the United Nations resolutions, moved its capital from Tel Aviv to the western part of Jerusalem in 1950.

The Commission was able to arrange a conference in Lausanne in April 1949, consisting of separate talks with the two sides, since the Arab States consistently rejected direct negotiations with Israel. The Arab States urged that the refugee question, as the most urgent issue, be settled first, but Israel insisted that this be linked to a territorial settlement in a peace treaty. The Commission's efforts to link the two questions were unsuccessful. On 12 May 1949, two separate protocols were signed by the Arab States and Israel, agreeing to use the partition resolution's boundaries as a "basis for discussions with the Commission". This act reiterated the international commitment to establish a Palestinian Arab State on the basis of the partition resolution, but this position was, as reported by the Commission, subjected by Israel to certain reservations, as cited below:

"The refugee question:

> "... The Arab delegations continue to hold the view that the first step must be acceptance by the Government of Israel of the principle set forth in resolution 194 (III) of 11 December 1948 concerning the repatriation of refugees who wish to return to their homes and live at peace with their neighbours. The Commission has not succeeded in achieving the acceptance of this principle by the Government of Israel ... Israel's refusal to accept the

principle of repatriation is cited by the Arab delegations as the reason for their own reserved and reticent attitude on territorial questions ...

"Territorial questions:

"The Israel delegation proposed ... that the political frontier between Israel and Egypt and Lebanon respectively should be the same as that which separated the latter countries from Palestine under the British Mandate ...

"Concerning the political frontier between Israel and the Hashemite Jordan Kingdom, the Israel delegation proposed that it should remain the same as that between Transjordan and Palestine under the British Mandate ...

"As regards the central area of Palestine at present under Jordan military authority, the Israel delegation proposed that, without entering into the question of the future status of that area, the boundary between it and Israel should follow the present line between Israel and Jordan military forces ...

"The Israel delegation declared that Israel had no ambitions as regards the above-mentioned central area of Palestine, and did not wish at present to put forward suggestions as to its disposition. The Israel delegation considered that disposition of that area was a matter which should form the subject of a proposal agreed upon and put forward by the delegations of the Arab States, the Arab inhabitants of the territory and the refugees. Until the future status of that area was settled, Israel would continue to recognize the Hashemite Jordan Kingdom as the de facto military Power.

"Regarding the Jerusalem area, the Israel delegation states that its disposition was a separate question which did not enter into the present proposal.

"... for their part, the Arab delegations made a proposal that the refugees coming from certain areas (including the "West Bank") should be enabled to return to their homes forthwith ... the Arab delegations have indicated that this proposal bears a territorial aspect, since it envisages the return of refugees to areas designated as Arab territory, and which are in principle to be recognized as Arab territory.

"In regard to the Israel delegation's proposal concerning Israel's frontiers with Egypt and Lebanon respectively, including the proposal concerning the Gaza area, the Arab delegations informed the Commission that, in their view, the proposal constituted a flagrant violation of the terms of the Protocol of 12 May 1949 concerning territorial questions, since it was considered that such a proposal involved annexations rather than territorial adjustments envisaged by the Protocol.

"In so far as the above-mentioned proposal of the Arab delegations has a territorial character, the attitude of the Israel delegation is that it could not accept a certain proportionate distribution of territory agreed upon in 1947 as a criterion for a territorial settlement in present circumstances ..." 86/

From the Commission's report* it would seem that Israel now envisaged a Palestinian Arab State limited to the territories occupied by Egypt and Jordan, but this was unacceptable at the time to both the Palestinian Arabs and to the Arab States.

Israel joins the United Nations

On 11 May 1949, one day before the signing of the Lausanne protocols, Israel was admitted to United Nations membership. In a statement to the Political Committee, the Israeli representative declared that his country would observe the principles of the United Nations Charter, and would implement its resolutions. Israel was the only State to have achieved statehood and received territory also through an act of the United Nations. The preamble of the resolution admitting Israel to United Nations membership specifically referred to Israel's undertakings to implement General Assembly resolutions 181 (II) and 194 (III), the two resolutions that formed the centre of the Palestine issue in the United Nations:

"Having received the report of the Security Council on the application of Israel for membership in the United Nations,

"Noting that in the judgement of the Security Council, Israel is a peace-loving State and is able and willing to carry out the obligations contained in the Charter,

"Noting that the Security Council has recommended to the General Assembly that it admit Israel to membership in the United Nations,

"Noting furthermore the declaration by the State of Israel that it 'unreservedly accepts the obligations of the United Nations Charter and undertakes to honour them from the day when it becomes a Member of the United Nations',

"Recalling its resolutions of 29 November 1947 and 11 December 1948 and taking note of the declarations and explanations made by the representative of the Government of Israel before the ad hoc Political Committee in respect of the implementation of the said resolutions,

"The General Assembly,

"Acting in discharge of its functions under Article 4 of the Charter and rule 125 of its rules of procedure,

"1. Decides that Israel is a peace-loving State which accepts the obligations contained in the Charter and is able and willing to carry out those obligations;

"2. Decides to admit Israel to membership in the United Nations." 87/

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* The Commission's subsequent efforts to secure the right of peaceful return of the Palestinian Arabs, and to negotiate an international régime for Jerusalem, were inconclusive. It convened another Conference in Paris in 1951, again without result. Although it continued its formal efforts for some years, including attempts to establish an international régime for Jerusalem, it eventually was restricted to routine functions of maintaining lists of refugee properties, owners, blocked bank accounts, etc. ... and has not exercised any effective functions in the Palestine issue.

The references in the preambular paragraphs to General Assembly resolutions 181 (II) and 194 (III), the former having created Israel and the yet non-existent Palestinian Arab State, the latter having preserved the right of return of Palestinian refugees wishing to return to their homes and live at peace with their neighbours, carried implications of the Israeli acknowledgement of the continuing existence of a Palestinian Arab entity. However, the Palestinian Arab entity itself had not come into existence. That part of its territory occupied by Israel in 1948 was absorbed de facto by Israel by the extension of its laws to apply to those areas as an integral part of Israel. The "Area of Jurisdiction and Powers Ordinance" of 22 September 1948 reads:

> "The Provisional Council of State hereby enacts as follows -
>
> "1. Any law applying to the whole of the State of Israel shall be deemed to apply to the whole of the area including the area of the State of Israel and any part of Palestine which the Minister of Defence has defined by proclamation as being held by the Defence Army of Israel.
>
> "2. Any person or body of persons competent by virtue of a law as aforesaid to hold office or act in the whole of the State of Israel shall be deemed to be competent to hold office or act in the whole of the area including both the area of the State of Israel and any part of Palestine which the Minister of Defence has defined by proclamation as being held by the Defence Army of Israel.
>
> "3. This Ordinance shall have effect retroactively as from the 6th Iyar 5708 (15 May 1948) and all acts done which, but for the provisions of this Ordinance, would be without effect are hereby validated retroactively." 88/

On 24 April 1950, the West Bank was brought formally under Jordanian control. The Jordanian legislation stated:

> "... its reaffirmation of its intent to preserve the full Arab rights in Palestine, to defend those rights by all lawful means in the exercise of its natural rights but without prejudicing the final settlement of Palestine's just case within the sphere of national aspirations, inter-Arab co-operation and international justice". 89/

The Palestine issue widened into a broader Arab-Israel conflict, as feared by many who had anticipated the consequences of the establishment of Israel in Palestine against the opposition of the Palestinian Arab majority.

The 1956 Suez war was one outcome of this dispute, although not directly involving the Palestine issue or territory. The Arab-Israeli war of June 1967, however, brought immediate and direct repercussions on the Palestine question. Israel occupied the West Bank, the Gaza Strip and East Jerusalem as well as territories beyond to control far more than the area claimed by the World Zionist Organization in 1919, except for the East Bank of the Jordan (map at annex IV).

The great majority of Palestinians in the West Bank and Gaza were made refugees - many for the second time, having sought refuge in these areas during the first exodus of 1948. Those that stayed in Israeli occupied territory after 1967 came to form a new category distinct from those within Israel's pre-1967 borders,

who were entitled to Israeli citizenship. This new class was one of a people under foreign military occupation, subject to military rule, its repercussions and its consequences for the suppression of civil liberties and rights.

But both the Palestinians inside Israel's pre-1967 borders and those in the occupied territories accounted for a minority of the Palestinian people. The majority were now in total exile. In June 1967, of about 2.7 million persons of Palestinian origin, about 1.7 lived in Israel or the occupied territories - about 1 million in the West Bank, 400,000 in the Gaza Strip and 300,000 in the areas controlled by Israel. 90/ As a result of the 1967 war, almost half a million fled their homes, leaving about 900,000 Palestinians in the areas newly occupied by Israel, a total of 1.2 million under Israeli control. 91/ One million five hundred thousand were refugees in exile - in countries other than their own, their homeland under the control of the Jewish State.

VII. PALESTINE AND THE UNITED NATIONS - 1967-1977

At the international level, the Palestine question at this point was still being treated as principally a "refugee problem", with little attention to the Palestinian Arab identity. The wider Arab-Israeli tension remained an unresolved festering problem, the Arab States regarding Israel as an illegitimate State. An uneasy peace had been maintained since 1956 with the help of the United Nations Emergency Force (UNEF) and after 1967 peace-keeping responsibilities were assumed by the United Nations Truce Supervision Organization (UNTSO).

Security Council resolutions 237 (1967) and 242 (1967)

Immediately after the cease-fire of June 1967, the Security Council unanimously passed resolution 237 (1967) which read:

"The Security Council,

"...

"Considering that essential and inalienable human rights should be respected even during the vicissitudes of war,

"Considering that all the obligations of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949 should be complied with by the parties involved in the conflict,

"1. Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities;

"2. Recommends to the Governments concerned the scrupulous respect of the humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in time of war contained in the Geneva Conventions of 12 August 1949;

"..."

Efforts continued to move towards the resolution of the Middle East conflict. After intensive negotiations and discussion of various formulas, the Security Council adopted resolution 242 (1967) on 22 November 1967. The principal provisions of resolution 242 (1967), which has become a basic instrument in all subsequent discussions of a Middle East peace settlement, read:

"The Security Council,

"Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

"Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter.

"1. Affirms that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

"2. Affirms further the necessity:

(a) For guaranteeing freedom of navigation through international waterways in the area;

(b) For achieving a just settlement of the refugee problem;

(c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

"..."

From the United Nations standpoint, Security Council resolution 242 (1967) was intended to establish a framework for peace in the Middle East. However, it did not explicitly mention Palestine; the only cognizance of the underlying issue of Palestine was in the reference to "the refugee problem".

Further, on the territorial plane, resolution 242 (1967), by calling on Israel to withdraw to the pre-1967 war borders, implicitly endorsed Israel's jurisdiction over the territory occupied by Israel in the 1948 war beyond the lines laid down by the partition resolution.

Syria and Iraq rejected the resolution, while Egypt and Jordan demanded Israeli withdrawal from all territories occupied in the 1967 war as a pre-condition to any negotiations. Israel refused, taking the position that withdrawals, refugees and other issues could only be settled through direct negotiations with the Arab States and the conclusion of a comprehensive peace treaty.

The Jarring Mission

Under Security Council resolution 242 (1967), the Secretary-General appointed Ambassador Gunnar Jarring of Sweden as Special Representative in another United Nations effort to try and negotiate a Middle East settlement. Ambassador Jarring's attempts from 1967 to 1970 to promote agreements on the basis of resolution 242 (1967) did not succeed. In 1971, in identical aide-mémoire (annex V) to Egypt and Israel, he proposed that they give simultaneous and reciprocal commitments subject to the eventual satisfactory determination of all other aspects of a peace settlement. Israel would give a commitment to withdraw its forces from occupied Egyptian territory to the former border between Egypt and mandated Palestine, and Egypt would give a commitment to enter into a peace treaty

with Israel on certain explicit understandings in relation to resolution 242 (1967). Egypt agreed to give the commitment required if Israel would likewise give the commitments covering its own obligations.

The Israeli response, without specific reference to the commitment requested from it, stated that it viewed favourably Egypt's expression of readiness to enter into a peace agreement with Israel, and reiterated that it was prepared for meaningful negotiations on all subjects relevant to a peace agreement between the two countries. Israel stated it would give an undertaking to withdraw its forces to secure recognized and agreed boundaries to be established in the peace agreement; Israel would not withdraw to the pre-5 June 1967 lines. The Jarring mission did not produce an agreed basis for discussions, and was suspended in 1972.

The Palestine Liberation Organization

The Jarring negotiations were conducted on the basis of resolution 242 (1967) and thus did not address the fundamental issue of the Palestinian national identity which underlay the conflict in the Middle East. However, one immediate effect of the 1967 war and the expansion of Israel to occupy Palestine in its entirety had been to intensify the militancy in the Palestinians' struggle to regain their fundamental national rights. The Palestine Liberation Organization (PLO), formed in 1964, adopted a new Covenant in 1968 committing all Palestinians to continue the fight for their rights, claiming that the international community had so far proved unable to discharge the responsibility it had borne for almost half a century. The Covenant termed Israel an illegal State, leading to Israel's refusal to deal with the PLO. The intensification of the armed struggle by the PLO to reassert the Palestinian national identity and its claim to the inherent right of self-determination increasingly focused world attention on the resolve of the Palestinian people to regain their national rights. The provisions of General Assembly resolution 194 (III) of 1948, establishing the special status of Jerusalem, and the right of Palestinian refugees to return to their homes if they wished and were prepared to live at peace with their neighbours, or to receive compensation, has been reasserted virtually every year since 1948, with Israel consistently refusing compliance except in the context of an overall settlement. Reference in the United Nations to the national rights of the Palestinians, however, appeared only after over two decades had passed since the partition of Palestine.

United Nations recognition of the Palestinian national identity

In 1969, the General Assembly specifically and formally recognized the inalienable rights of the Palestinian people, declaring that the Assembly:

> "Recognizing that the problem of the Palestine Arab refugees has arisen from the denial of their inalienable rights under the Charter of the United Nations and the Universal Declaration of Human Rights,
>
> "Gravely concerned that the denial of their rights has been aggravated by the reported acts of collective punishment, arbitrary detention, curfews, destruction of homes and property, deportation and other repressive acts against the refugees and other inhabitants of the occupied territories,
>
> "...

"1. Reaffirms the inalienable rights of the people of Palestine;

"2. Draws the attention of the Security Council to the grave situation resulting from Israeli policies and practices in the occupied territories and Israel's refusal to implement the above [United Nations] resolutions;

"3. Requests the Security Council to take effective measures in accordance with the relevant provisions of the Charter of the United Nations to ensure the implementation of these resolutions." 92/

The Security Council, however, was dealing with the wider Middle East problem in the framework of its resolution 242 (1967), and the specific issue of Palestinian rights was not addressed by it.

In 1970, the General Assembly, reasserting its previous demands for Israeli withdrawal from territories occupied in 1967, for the observance of the right of return of the refugees, and for the cessation of violations of human rights, advanced to acknowledge the central position of the Palestine issue in the Middle East situation, in the following words:

"1. Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;

"2. Declares that full respect for the inalienable rights of the people of Palestine is an indispensable element in the establishment of a just and lasting peace in the Middle East." 93/

Resolutions in similar terms were passed in 1971 and 1972 by the General Assembly. In 1973, in a resolution dealing with the situation in Africa, but which could be regarded as implicitly applying to the Middle East also, the General Assembly recognized that armed struggle was a legitimate part of a liberation movement, declaring that the Assembly:

"1. Reaffirms the inalienable right of all people under colonial and foreign domination and alien subjugation to self-determination, freedom and independence ...;

"2. Also reaffirms the legitimacy of the peoples' struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including armed struggle;

"...

"6. Condemns all Governments which do not recognize the right to self-determination and independence of peoples, notably the people of Africa still under colonial domination and the Palestinian people." 94/*

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* A number of delegations expressed reservations about the language referring to armed struggle. The vote in the Third Committee on this paragraph (para. 2) was 82 in favour, 12 against, with 23 abstentions. In the General Assembly, the resolution received 97 votes in favour and 5 against, with 28 abstentions.

The Middle East war of October 1973 was followed by an advance in the status of the PLO when, in October 1974, the Conference of Arab Heads of State and Government held at Rabat passed a resolution endorsing the right of the Palestinian people to self-determination and its own homeland, and recognizing the PLO as the legitimate representative of the Palestinian people. The acceptance of this resolution by Jordan was of particular significance since from 1948 to 1967 Jordan had administered the West Bank. The resolution stated that the Conference:

"Affirms the right of the Arab Palestinian people to the return of its homeland and its right to self-determination.

"Affirms the right of the Palestinian people to set up an independent national authority under the leadership of the Palestinian Liberation Organization, in its capacity as the sole legitimate representative of the Palestinian people, on any liberated Palestinian land. The Arab countries are resolved to support such an authority once it is established.

"Declares its support for the Palestine Liberation Organization in exercising its national and international responsibilities within the framework of Arab commitments."

The Palestine question in the United Nations

In September 1974, a large number of States joined to propose that the item "The question of Palestine" be included as a separate item in the General Assembly agenda. On the recommendation of the Assembly's General Committee the Palestine question reappeared on the Assembly's agenda for the first time since 1952. In October 1974, by 105 votes in favour to 4 against (and 20 abstentions), the PLO was invited to participate in Assembly proceedings.

"The General Assembly,

"Considering that the Palestinian people is the principal party to the question of Palestine,

"Invites the Palestine Liberation Organization, the representative of the Palestinian people, to participate in the deliberations of the General Assembly on the question of Palestine in plenary meetings." 95/

A month later, the Palestinian rights received full recognition in the United Nations when the General Assembly passed the following resolution by 87 votes to 8, with 37 abstentions:

"The General Assembly,

"Deeply concerned that no just solution to the problem of Palestine has yet been achieved and recognizing that the problem of Palestine continues to endanger international peace and security,

"Recognizing that the Palestinian people is entitled to self-determination in accordance with the Charter of the United Nations,

"Expressing its grave concern that the Palestinian people has been prevented from enjoying its inalienable rights, in particular its right to self-determination,

"Guided by the purposes and principles of the Charter,

"Recalling its relevant resolutions which affirm the right of the Palestinian people to self-determination,

"1. Reaffirms the inalienable rights of the Palestinian people in Palestine, including:

(a) The right to self-determination without external interference;

(b) The right to national independence and sovereignty;

"2. Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return;

"3. Emphasizes that full respect for and the realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine;

"4. Recognizes that the Palestinian people is a principal party in the establishment of a just and lasting peace in the Middle East;

"5. Further recognizes the right of the Palestinian people to regain its rights by all means in accordance with the purposes and principles of the Charter of the United Nations;

"6. Appeals to all States and international organizations to extend their support to the Palestinian people in its struggle to restore its rights, in accordance with the Charter;

"7. Requests the Secretary-General to establish contacts with the Palestine Liberation Organization on all matters concerning the question of Palestine." 96/

The Assembly simultaneously conferred on the PLO the status of observer in the Assembly and in other international conferences held under United Nations auspices. 97/ On 13 November 1974, Mr. Yasser Arafat, Chairman of the Executive Committee of the PLO, addressed the General Assembly. In his speech, excerpts from which follow, he directly addressed the question of the terrorist image of the PLO.

"Those who call us terrorists wish to prevent world public opinion from discovering the truth about us and from seeing the justice on our faces. They seek to hide the terrorism and tyranny of their acts, and our own posture of self-defence.

"The difference between the revolutionary and the terrorist lies in the reason for which each fights. For whoever stands by a just cause and fights for the freedom and liberation of his land from the invaders, the settlers and

the colonialists, cannot possibly be called terrorist, otherwise the Americans in their struggle for liberation from the British colonialists would have been terrorists; the European resistance against the Nazis would be terrorism, the struggle of the Asian, African and Latin American peoples would also be terrorism, and many of you who are in this Assembly hall were considered terrorists ...

"Need one remind this Assembly of the numerous resolutions adopted by it condemning Israeli aggressions committed against Arab countries, Israeli violations of human rights and articles of the Geneva Conventions, as well as the resolutions pertaining to the annexation of the city of Jerusalem and its restoration to its former status?

"I am a rebel and freedom is my cause. I know well that many of you present here today once stood in exactly the same resistance position as I now occupy and from which I must fight. You once had to convert dreams into reality by your struggle. Therefore you must now share my dream. I think this is exactly why I can ask you now to help, as together we bring out our dreams into a bright reality, our common dream for a peaceful future in Palestine's sacred land ...

"In my formal capacity as Chairman of the PLO and leader of the Palestinian revolution I proclaim before you that when we speak of our common hopes for the Palestine of tomorrow we include in our perspective all Jews now living in Palestine who choose to live with us there in peace and without discrimination.

"All along the Palestinian dreamt of return. Neither the Palestinian's allegiance to Palestine nor his determination to return waned: nothing could persuade him to relinquish his Palestinian identity or to forsake his homeland. The passage of time did not make him forget, as some hoped he would. When our people lost faith in the international community which persisted in ignoring its rights and when it became obvious that the Palestinians would not recuperate one inch of Palestine through exclusively political means, our people had no choice but to resort to armed struggle. Into that struggle it poured its material and human resources. We bravely faced the most vicious acts of Israeli terrorism which were aimed at diverting our struggle and arresting it ...

"We offer them the most generous solution, that we might live together in a framework of just peace in our democratic Palestine ...

"I appeal to you to enable our people to establish national independent sovereignty over its own land.

"Today I have come bearing an olive branch and a freedom-fighter's gun. Do not let the olive branch fall from my hand. I repeat: do not let the olive branch fall from my hand.

"War flares up in Palestine, and yet it is in Palestine that peace will be born." 98/

The Israeli representative said the following in the course of his reply:

"... it is obvious that the initiators of the discussion of the so-called question of Palestine are concerned primarily not with the realization of the rights of the Palestinians, but with the annulment of the rights of the Jewish people. Israel's destruction and the denial to the people of Israel of its rights to self-determination and independence are the officially enunciated objectives of the PLO at whose behest the Arab Governments have asked for this debate. By doing so, by initiating the invitation extended to the PLO and by the decisions adopted at the recent Rabat Conference, the Arab Governments have reaffirmed their association with the umbrella organization of the Arab murder squads. This is not surprising. The PLO did not emerge from within the Palestinian community. It is not representative of the Palestinian community. It is a creation of the Arab Governments themselves. It was established at the first summit meeting of the Heads of Arab States in Cairo in 1964 as an instrument for waging terror warfare against Israel. Its Covenant stipulates:

> "'The establishment of Israel is fundamentally null and void. The claim of historical or spiritual ties between Jews and Palestine does not tally with historical realities. The Jews are not one people with an independent personality ...'

"Support for the PLO's murderous ideology and sinister objectives is expressed in the United Nations in various terms. References are frequently made to 'the root problem' of the Palestinian question, a euphemism for Israel's statehood. On occasion speakers lash out unabashedly against Israel's independence, slander it as colonialism, call for its replacement by a second Palestinian Arab State, in addition to Jordan. At times, the terms employed are more general, such as restoration of the inalienable rights of the Palestinian people, self-determination, and so on. Since the 8 June 1974 Cairo meeting of the PLO and the Rabat Summit Conference the talk is of establishing PLO authority in territories wrested from Israel, making it clear that this would be only a first step towards Israel's elimination ..." 99/

Violation of human rights

The United Nations took up the issue of human rights violations after the 1967 war and Israel's occupation of the remaining territory in Palestine and parts of bordering Arab countries. In August 1967 the General Assembly endorsed Security Council resolution 237 (1967), calling on Israel to allow the return of refugees and to observe international conventions governing the treatment of civilians in time of war. 100/ The General Assembly in 1968 reasserted the right of the refugees to return to their homes, and established a "Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories". 101/ Israel has refused to allow the Committee entry into the occupied areas but the Committee, on the basis of reliable evidence from various sources, has monitored developments in those areas and regularly submitted reports to the General Assembly on alleged Israeli violations of human rights. The General Assembly has repeatedly passed resolutions criticizing Israel's actions in the occupied territories. The resolution passed in 1977, in terms reflecting those passed in preceding years, states that the Assembly:

"Condemns the following Israeli policies and practices:

"(a) The annexation of parts of the occupied territories;

"(b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

"(c) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right of return;

"(d) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving the Israeli authorities, institutions or nationals on the one hand, and the inhabitants or institutions of the occupied territories on the other;

"(e) The destruction and demolition of Arab houses;

"(f) Mass arrests, administrative detention and ill-treatment of the Arab population;

"(g) The ill-treatment and torture of persons under detention;

"(h) The pillaging of archaeological and cultural property;

"(i) The interference with religious freedoms and practices as well as family rights and customs;

"(j) The illegal exploitation of the natural wealth, resources and population of the occupied territories." 102/

The United Nations Commission on Human Rights has also denounced Israeli violations of human rights in the occupied territories. Excerpts from its resolution of 1977 103/ follow:

"The Commission on Human Rights,

"Taking into account that the General Assembly has, in resolution 31/20, recalled its resolution 3376 (XXX), in which it expressed grave concern that no progress has been achieved towards:

"(a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty,

"(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted ...

"Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupied Arab territories, particularly the measures aiming at annexation, as well as the continuing establishment of settlers' colonies, mass destruction of homes, torture and ill-treatment of detainees, expropriation of properties and imposition of discriminatory economic legislation,

"1. Expresses its grave anxiety and concern over the deteriorating serious situation in the occupied Arab territories as a result of the continued Israeli occupation and aggression;

"2. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes;

"3. Deplores once again Israel's continued violations, in the occupied Arab territories, of the basic norms of international law and of the relevant international conventions, in particular, Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, which are considered as war crimes and an affront to humanity, as well as Israel's persistent defiance of the relevant resolutions of the United Nations and its continued policy of violating the basic human rights of the inhabitants of the occupied Arab territories;

"...

"6. Reaffirms that all such measures taken by Israel to change the physical character, demographic composition or status of the occupied Arab territories or any part thereof, including Jerusalem, are all null and void, and calls upon Israel to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of the occupied Arab territories, including Jerusalem ...

"...

"8. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions concerning the treatment of prisoners of war and, in this context, requests the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its next session;

"9. Further calls upon Israel once more to comply with its obligations under the Charter of the United Nations and the Universal Declaration of Human Rights, and to acknowledge and abide by its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

"10. Reiterates its call upon all States, international organizations and specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid actions which might be used by Israel in its pursuit of the policies and practices referred to in the present resolution".

The decade 1967-1977, during which there were two major conflicts in the Middle East, thus saw a fundamental transformation in the treatment of the Palestine question. From being viewed as a refugee problem, it had been recognized as an important issue involving the fundamental rights of the Palestinian people to return to their homeland and to national self-determination.

VIII. THE UNITED NATIONS COMMITTEE ON THE EXERCISE OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

At its thirtieth session in 1975, the General Assembly requested the Security Council to act to enable the Palestinian people to exercise their rights. The Assembly also called for the participation of the PLO, on an equal footing with other parties, in all negotiations on the Middle East held under United Nations auspices, requesting the Secretary-General to make efforts to secure the invitation of the PLO to the Peace Conference on the Middle East (first convened at Geneva in December 1973). 104/

In another resolution, the General Assembly expressed its concern that:

"... no just solution to the problem of Palestine has yet been achieved,

"... the problem of Palestine continues to endanger international peace and security,

"... no progress has been achieved towards:

"(a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty;

"(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted." 105/

By the same resolution, the General Assembly established the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The original members of the Committee* were:

Afghanistan, Cuba, Cyprus, German Democratic Republic, Guinea, Hungary, India, Indonesia, Lao People's Democratic Republic, Madagascar, Malaysia, Malta, Pakistan, Romania, Senegal, Sierra Leone, Tunisia, Turkey, Ukrainian Soviet Socialist Republic and Yugoslavia.

The following States have been participating as observers in the work of the Committee: Egypt, Iraq, Jordan, the Libyan Arab Republic, Mauritania and the Syrian Arab Republic. The PLO, the League of Arab States and the Organization of the Islamic Conference also joined the Committee as observers.

Ambassador Médoune Fall of Senegal was the first Chairman of the Committee. The mandate of the Committee was to formulate recommendations for a programme of implementation designed to enable the Palestinian people to exercise their inalienable rights including:

(a) The right to self-determination without external interference;

(b) The right to national independence and sovereignty;

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* In 1976 Guyana, Mali and Nigeria joined the Committee.

(c) The inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted.

The Committee, after several meetings during 1976, issued its first report 106/ with the following principal recommendations (text at annex VI):

"The right of return

"Phase one:

"The first phase involves the return to their homes of the Palestinians displaced as a result of the war of June 1967. The Committee recommends that:

"(i) The Security Council should request the immediate implementation of its resolution 237 (1967) and that such implementation should not be related to any other conditions;

"Phase two:

"The second phase deals with the return to their homes of the Palestinians displaced between 1948 and 1967. The Committee recommends that:

"(i) While the first phase is being implemented, the United Nations in co-operation with the States directly involved, and the Palestine Liberation Organization as the interim representative of the Palestinian entity, should proceed to make the necessary arrangements to enable Palestinians displaced between 1948 and 1967 to exercise their right to return to their homes and property, in accordance with the relevant United Nations resolutions, particularly General Assembly resolution 194 (III);

"(ii) Palestinians not choosing to return to their homes should be paid just and equitable compensation as provided for in resolution 194 (III).

"The right to self-determination, national independence and sovereignty

"... The evacuation of the territories occupied by force and in violation of the principles of the Charter and relevant resolutions of the United Nations is a conditio sine qua non for the exercise by the Palestinian people of its inalienable rights in Palestine ...

"(a) A timetable should be established by the Security Council for the complete withdrawal by Israeli occupation forces from those areas occupied in 1967 ...

"(b) The Security Council may need to provide temporary peace-keeping forces in order to facilitate the process of withdrawal;

"(c) Israel should be requested by the Security Council to desist from the establishment of new settlements and to withdraw during this period from settlements established since 1967 in the occupied territories ...

"(d) Israel should also be requested to abide scrupulously by the provisions of the Geneva Convention ...

"(e) The evacuated territories, ... should be taken over by the United Nations, which ... will subsequently hand over these evacuated areas to the Palestine Liberation Organization as the representative of the Palestinian people;

...

"(g) As soon as the independent Palestinian entity has been established, the United Nations, in co-operation with the States directly involved and the Palestinian entity, should ... make further arrangements for the full implementation of the inalienable rights of the Palestinian people, the resolution of outstanding problems and the establishment of a just and lasting peace in the region, in accordance with all relevant United Nations resolutions ..."

Presenting the recommendations to the General Assembly in 1976, the Committee Chairman said, inter alia:

"Never in the history of nations have the actions of an international organization had such a decisive effect on the destiny of a people than those of the United Nations on that of the Palestinian people ...

"The question of Palestine, which was introduced on 2 April 1947 to the United Nations by the United Kingdom, has borne and still bears the character of a problem of self-determination, which the United Nations to date has not been able to resolve in a just and, therefore, durable manner.

"As a result, the question has remained before the United Nations in a state of uncertainty ever since the very first days of the Organization, which has devoted more time, discussion and effort to its solution than to any other item without succeeding in bringing about a just and durable solution ... This situation does not mean that the United Nations is incapable of promoting a peaceful solution of this question ...

"This task must be recognized to be both important and difficult. Important because, for the first time, the United Nations is dealing in a specific manner with the question which lies at the heart of the Middle East conflict. Difficult, because the implementation of the rights of the Palestinian people is the subject of diverging, if not diametrically opposed, interpretations ...

"Our Committee, as you will have noted, has based itself, in its work, solely on the relevant decisions and resolutions of the General Assembly and the Security Council, whether the matter concerned the refugees, the withdrawal from the occupied Arab territories, or the implementation of the right to self-determination of the Palestinian people ...

"... the mandate of the Committee, [is] neither to resolve the question of the Middle East nor to reaffirm the rights of Israel, but to define ways and means to ensure recognition of the inalienable rights of the Palestinian people ..." 107/

Earlier, the Committee's recommendations had been considered by the Security Council, where the Committee Chairman had stated:

> "The present world situation requires that the Security Council carefully study the recommendations submitted to it so that a settlement of the question may be found, since as everyone knows, such a settlement is essential for the establishment of peace in the Middle East. We believe that such action is all the more appropriate in that the United Nations must bear a great part of the responsibility for the tragedy which the Arab people of Palestine are now experiencing.
>
> "It is in the interests of the State of Israel as well that a real and lasting peace be established in the Middle East.
>
> "Ruthless, blind and unjust force can build nothing which cannot be destroyed by an even greater force based on justice and law.
>
> "The Israeli leaders have too much imagination and too great a sense of political responsibility not to understand that time is working against them. Unfortunately, we must recognize the fact that they are now beginning to count far too many lost opportunities [The Chairman then quoted M. Mendes-France]
>
> > 'When a people wishes to free itself of an occupier although the occupier may be militarily more powerful, it will always be successful. This was the case in Viet Nam, in Algeria, in Madagascar, in Angola. The same will hold for Palestine'". 108/

The Security Council had debated the Palestine question in the context of the Committee's reports, and had considered a draft resolution declaring that the Council:

> "Affirms the inalienable rights of the Palestinian people to self-determination, including the right of return and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations". 109/

The resolution had received 10 votes in favour, 1 against (United States) and 4 abstentions.* The resolution failed due to the veto. 110/

The Council again took up the Committee's report in October 1977. The Committee Chairman again emphasized that:

> "... [the Committee's] mandate was not to deal with the Middle East question in its entirety, but, rather, to seek ways and means of implementing the inalienable rights of the Palestinian people. In other words, the task of our Committee consists, above all, in righting the basic imbalance which has

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* In favour: Benin, China, Guyana, Japan, Libyan Arab Republic, Pakistan, Panama, Romania, Union of Soviet Socialist Republics, United Republic of Tanzania

Abstaining: France, Italy, Sweden, United Kingdom of Great Britain and Northern Ireland

always characterized the various United Nations approaches to the Palestine question. Far from being an advocate of partiality, the Committee has tried to redress that regrettable imbalance and to give the Palestine question its rightful place and its true dimension ..." 111/

The Chairman stressed that the inalienable rights of the Palestinian people had been recognized by most countries, adding that:

"Israel's right to exist is no longer challenged by anyone. But Israel in turn must recognize the legitimate rights of its neighbours. The world is now thirsting for peace and security. Israel has no right to continue to pose constant threats to the very survival of our planet ..." 112/

However, the Security Council adjourned the discussion without taking any action, the item remaining on its agenda.

IX. THE STATUS OF THE PALESTINIAN ENTITY

The Palestine question is now in a state where the inherent and inalienable rights of the Palestinian people to self-determination and to the establishment of a Palestinian entity is receiving steadily widening attention, as are the original factors that led to the creation of the Palestine problem and the underlying issues. They have been outlined in this study and may be recapitulated to place this complex problem in perspective.

In 1917 there existed a Palestinian entity possessing two of the major attributes of a nation - a people rooted for centuries in a defined territory. This entity, along with others, had been part of an empire that disintegrated in the First World War. Palestine was among the entities that the League of Nations recognized as one of those communities "whose existence as independent nations can be provisionally recognized". The Mandate, according to the Covenant of the League of Nations, should have provided administrative guidance designed to facilitate the transition to full independence, but it also required the Mandatory to secure the establishment of a Jewish national home. The indigenous people of Palestine had not been consulted in the framing of this policy.

The implementation of this policy transformed the demographic and land owning patterns in Palestine. Where the Jewish community had constituted about 9 per cent of the population in Palestine in 1917, by 1947 massive immigration had swelled this proportion to about 32 per cent. In 1917, Jewish-owned land had accounted for 2.5 per cent of the total land area of Palestine. By 1947, this had increased to 6.2 per cent.

These changes, as well as other factors and policies, led to a situation in which, instead of chieving independence as a single State, as other mandated territories had, Palestine was partitioned by a United Nations resolution, the Mandatory Power having declared its inability to deal with the conflict that the irreconcilable obligations of the Mandate had created. The partition resolution which was rejected by the Palestinian Arabs as well as by the Arab States, awarded 56 per cent of the territory of Palestine to 32 per cent of its population.

In the 1948 war the new State of Israel expanded to occupy 77 per cent of the territory of Palestine. Israel also occupied the larger part of Jerusalem, meant to be internationalized under the partition resolution. Jordan and Egypt occupied the other parts of the territory assigned by the partition resolution to the Palestinian Arab State which did not come into being. Over half the indigenous Palestinians fled or were expelled, the refugees numbering 726,000 by the end of 1949.

In the 1967 war, Israel occupied the remaining territory of Palestine, until then under Jordanian and Egyptian control. This included the remaining part of Jerusalem, the city being made the Israeli capital. The war brought a second exodus of Palestinians, estimated at half a million. By 1970, of an estimated Palestinian population of 3 million, over half, 1.6 million, were in exile, 1 million are in the territories occupied by Israel in 1967, and 400,000 within the pre-1967 borders of Israel. Israel has refused to comply with the call by the United Nations, repeated virtually annually since 1948, to permit the return of Palestinian refugees who wish to return to their homes and live at peace with their neighbours and to award compensation to those choosing not to return.

Israel has also failed to comply with that part of Security Council resolution 242 (1967) of 22 November 1967, which called on Israel to withdraw from territories it had occupied in the 1967 conflict, on the grounds that withdrawals can be contemplated only in the context of a comprehensive settlement, which includes the other operative paragraph of the resolution namely:

> "... respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries, free from threats or acts of force".

Efforts within and without the United Nations for such a settlement of the Middle East dispute have been under way for over a decade and are yet to achieve success. The Middle East dispute which has led to four major wars and to a constant threat to world peace, grew out of the seed of the Palestine issue. The General Assembly since 1969 has repeatedly reiterated this fact, and has emphasized that the Palestine issue can only be resolved when the Palestinian people are assured the exercise of their inherent and inalienable rights of return and national self-determination.

The recognition of the great majority of Member States of the United Nations that the issue of the Palestinian people must be solved if peace is to return to the Middle East is evidenced by the following statements:

In August 1976 the Conference of Heads of State or Government of Non-Aligned Countries, meeting at Colombo, made the following declaration:

> "The Conference believed that a just and lasting peace in the Middle East can only be established through the solution of the Palestine question, the root cause of the conflict in the region, in accordance with the United Nations resolutions which recognized the inalienable national rights of the Palestinian people". 113/

The Conference detailed these rights as the right of self-determination, the right of return and the right to national independence and the establishment of an independent, sovereign State in Palestine, in accordance with the Charter of the United Nations.

The Assembly of Heads of State and Government of the Organization of African Unity, meeting at Libreville in July 1977, declared:

> "... that a just and lasting peace can be attained only on the basis of total Israeli withdrawal from all occupied Arab territories and recognition of the national legitimate right of the Palestinian people to their territory, sovereignty and national independence and their right to self-determination and the creation of an independent State on their national territory." 114/

The spokesman of the European Economic Community, addressing the General Assembly in September 1977 stated:

> "With regard to the situation in the Near East over which the Nine continue to be gravely concerned, we remain convinced, as a matter of principle, that any solution must be based on Security Council

resolutions 242 (1967) and 338 (1973), as we reaffirmed on 29 June 1977, as well as on the following fundamental principles: first, acquisition of territory by force is unacceptable; secondly, Israel must end its occupation of territories it has held since the 1967 war; thirdly, the sovereignty, territorial integrity and the independence of each State in the region must be respected, as well as the right of each State in the region to live in peace with secure and recognized borders; fourthly, the establishment of a just and lasting peace must give due consideration to the rights of the Palestinians.

"The Nine also continue to believe that a solution to the conflict will be possible only if the legitimate right of the Palestinian people to give effective expression to its national identity is translated into fact. This would take into account, of course, the need for a homeland for the Palestinian people.

"It remains the firm view of the Nine that all aspects of the problem must be taken as a whole.

"They consider that the representatives of the parties to the conflict, including the Palestinian people, must participate in the negotiations in an appropriate manner to be worked out in consultation among all the parties concerned. In the context of an over-all settlement, Israel must be ready to recognize the legitimate rights of the Palestinian people; also the Arab side must be ready to recognize the right of Israel to live in peace within secure and recognized boundaries." 115/

On 1 October 1977, a United States-Soviet joint communiqué stated:

"The United States and the Soviet Union believe that, within the framework of a comprehensive settlement of the Middle East problem, all specific questions of the settlement should be resolved, including such key issues as withdrawal of Israeli armed forces from territories occupied in the 1967 conflict; the resolution of the Palestinian question, including insuring the legitimate rights of the Palestinian people; termination of the state of war and establishment of normal peaceful relations on the basis of mutual recognition of the principles of sovereignty, territorial integrity, and political independence".

The Secretary-General of the United Nations has been engaged in efforts to promote progress towards a Middle East peace, and also has stressed the place the Palestine issue holds in the dispute.

In a 1976 report on the Palestine question, the Secretary-General noted that the Security Council discussions that year:

"... had emphasized the Palestinian dimension of the Middle East problem and has reaffirmed the right of every State in the area to live in peace within secure and recognized boundaries ..."

The Secretary-General had pointed out these aspects in a letter dated 27 January 1976 to the Co-Chairman of the Geneva Conference. 116/

In his report in August 1976 on the work of the United Nations, the Secretary-General stated:

"The Palestinian dimension of the Middle East problem has gained increasing attention in efforts to achieve a just and lasting peace in that region ... I would like to underline once again the fundamental importance of tackling the Palestinian question as an essential element in resolving the Middle East dispute". 117/

Notes

1/ Official Records of the General Assembly, First Special Session, Plenary, General Series, document A/286.

2/ Ibid., documents A/287 to A/291.

3/ Ibid., General Committee, vol. II, 29th meeting, p. 32.

4/ Ibid., 31st meeting, pp. 81-82.

5/ Ibid., Plenary Meetings, vol. I, 71st meeting, p. 60.

6/ Ibid., General Committee, vol. II, 32nd meeting, pp. 92-93.

7/ Ibid., First Committee, vol. III, 46th meeting, p. 8, document A/C.1/145.

8/ Ibid., 50th meeting, p. 104, document A/C.1/155.

9/ Ibid., Annexes, p. 365, document A/C.1/149.

10/ Ibid., Annexes, p. 366, document A/C.1/150.

11/ Ibid., First Committee, vol. III, 48th meeting, pp. 88-91.

12/ Ibid., 52nd meeting, pp. 184-185.

13/ Ibid., 54th meeting, p. 252; 50th meeting, p. 114.

14/ Ibid., 56th meeting, p. 314.

15/ Ibid., 56th meeting, pp. 312-313.

16/ Ibid., Plenary Meetings, vol. I, 77th meeting, pp. 132-134.

17/ Ibid., 78th meeting, p. 145.

18/ Official Records of the General Assembly, Second Session, Supplement No. 11, document A/364 (Report of the United Nations Special Committee on Palestine), vol. II, p. 5.

19/ Ibid., vol. III, pp. 9, 14 and 19.

20/ Ibid., p. 62.

21/ Ibid., p. 56.

22/ Ibid., p. 83.

23/ Ibid., vol. IV, p. 20.

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25/ Ibid., pp. 45 and 46.

Notes (continued)

26/ Ibid., vol. II, pp. 15 and 16.

27/ Ibid., p. 43.

28/ Ibid., vol. I, pp. 29 and 30.

29/ Ibid., p. 33.

30/ Ibid., pp. 42-44.

31/ Ibid., p. 47.

32/ Ibid., pp. 59 and 64.

33/ Ibid., vol. I, p. 6.

34/ Ibid., vol. II, p. 14.

35/ Ibid., p. 28.

36/ Ibid., pp. 21-22.

37/ Official Records of the General Assembly, Second Session, Supplement No. 11, document A/364 (Report of the United Nations Special Committee on Palestine), vol. I, pp. 48-57.

38/ Ibid., pp. 60-64.

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40/ Palestine Post, 3 September 1947, p. 1.

41/ Official Records of the General Assembly, Second Session, Ad Hoc Committee on the Palestine Question, 2nd meeting, p. 3.

42/ Ibid., 3rd meeting, pp. 6-11.

43/ Ibid., 4th meeting, pp. 15-19.

44/ Ibid., 15th meeting, pp. 96-98.

45/ Ibid., 11th meeting, pp. 63-64.

46/ Ibid., 12th meeting, pp. 69-70.

47/ Ibid., 18th meeting, pp. 123-124.

48/ Ibid., 7th meeting, pp. 37-39.

49/ Ibid., 19th meeting, p. 129.

50/ Weizmann, Chaim, Trial and Error (New York, Harper and Bros. 1949), pp. 457-459.

51/ Official Records of the General Assembly, Second Session, Ad Hoc Committee on the Palestine Question, pp. 276-279.

52/ Official Records of the General Assembly, Second Session, Plenary Meetings, vol. II, 124th meeting, p. 1310.

53/ Ibid., 124th meeting, pp. 1323-1324.

54/ Ibid., 125th meeting, p. 1334.

55/ Ibid., 124th meeting, pp. 1321-1322.

56/ Ibid., 124th meeting, pp. 1325-1328.

57/ Ibid., 125th meeting, p. 1359.

58/ Ibid., 124th meeting, pp. 1313-1314.

59/ Ibid., 125th meeting, p. 1341.

60/ Ibid., 127th meeting, pp. 1396-1399.

61/ Ibid., 126th meeting, pp. 1370 and 1378.

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63/ Ibid., 128th meeting, p. 1426.

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65/ Official Records of the Security Council, Third Year, Special Supplement No. 2, p. 12.

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82/ Ibid., paras. 14 and 15.

83/ Ibid., sect. VIII, para. 4.

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86/ Ibid., Ad Hoc Political Committee, Annexes, vol. II, pp. 5-8, document A/927.

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90/ Abu-Lughod, Janet, "The Demographic Transformation of Palestine", in Abu Lughod, Ibrahim: The Transformation of Palestine, Evanston, Ill., Northwestern University Press, 1971, p. 162.

91/ Ibid., p. 163.

Notes (continued)

92/ General Assembly resolution 2535 B (XXIV) of 10 December 1969. Votes: 47 in favour, 22 against, 47 abstentions.

93/ General Assembly resolution 2672 C (XXV) of 8 December 1970. Votes: 47 in favour, 22 against, 50 abstentions.

94/ General Assembly resolution 3070 (XXVIII) of 30 November 1973. Votes: 97 in favour, 5 against, 28 abstentions.

95/ General Assembly resolution 3210 (XXIX) of 14 October 1974.

96/ General Assembly resolution 3236 (XXIX) of 22 November 1974.

97/ General Assembly resolution 3237 (XXIX) of 22 November 1974. Votes: 95 in favour, 17 against, 19 abstentions.

98/ Document A/PV.2282, pp. 31ff.

99/ Document A/PV.2283, pp. 26-27.

100/ General Assembly resolution 2252 (ES-V) of 4 July 1967. Votes: 116 in favour, 0 against, 2 abstentions.

101/ General Assembly resolution 2443 (XXIII) of 19 December 1968. Votes: 60 in favour, 22 against, 30 abstentions.

102/ General Assembly resolutions 32/91 C of 13 December 1977; votes: 98 in favour, 2 against, 32 abstentions; 3240 A (XXIX) of 29 November 1974; votes: 95 in favour, 4 against, 31 abstentions; 3525 A (XXX) of 15 December 1975; votes: 87 in favour, 7 against, 26 abstentions; 31/106 C of 16 December 1976; votes: 100 in favour, 5 against, 30 abstentions.

103/ Commission on Human Rights resolution 1 (XXXIII) of 15 February 1977. Votes: 23 in favour, 3 against, 6 abstentions. The composition of the Commission in 1977 was: Austria, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Cuba, Cyprus, Ecuador, Egypt, Federal Republic of Germany, India, Iran, Italy, Jordan, Lesotho, Libyan Arab Jamahiriya, Nigeria, Pakistan, Panama, Peru, Rwanda, Senegal, Sweden, Syrian Arab Republic, Turkey, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Yugoslavia.

104/ General Assembly resolution 3375 (XXX) of 10 November 1975.

105/ General Assembly resolution 3376 (XXX) of 10 November 1975.

106/ Official Records of the General Assembly, Thirty-first Session, Supplement No. 35, document A/31/35.

107/ Ibid., Plenary Meetings, vol. II, 66th meeting, paras. 2, 4, 6, 13, 27 and 33.

108/ S/PV.1924, p. 26.

109/ Official Records of the Security Council, Thirty-first Year, Supplement for April, May and June 1976, document S/12119, p. 73.

110/ S/PV.1938, p. 62.

111/ S/PV.2041, p. 8.

112/ Ibid., p. 11.

113/ Official Records of the General Assembly, Thirty-first Session, document No. A/31/197, annex I, para. 79.

114/ Ibid., Thirty-second Session, document A/32/160, annex, p. 1.

115/ Ibid., 7th meeting, document A/32/PV.7, p. 22.

116/ Official Records of the General Assembly, Thirty-first Session, document A/31/271, p. 3.

117/ Ibid., Supplement No. 1A, document A/31/1/Add.1, pp. 3 and 4.

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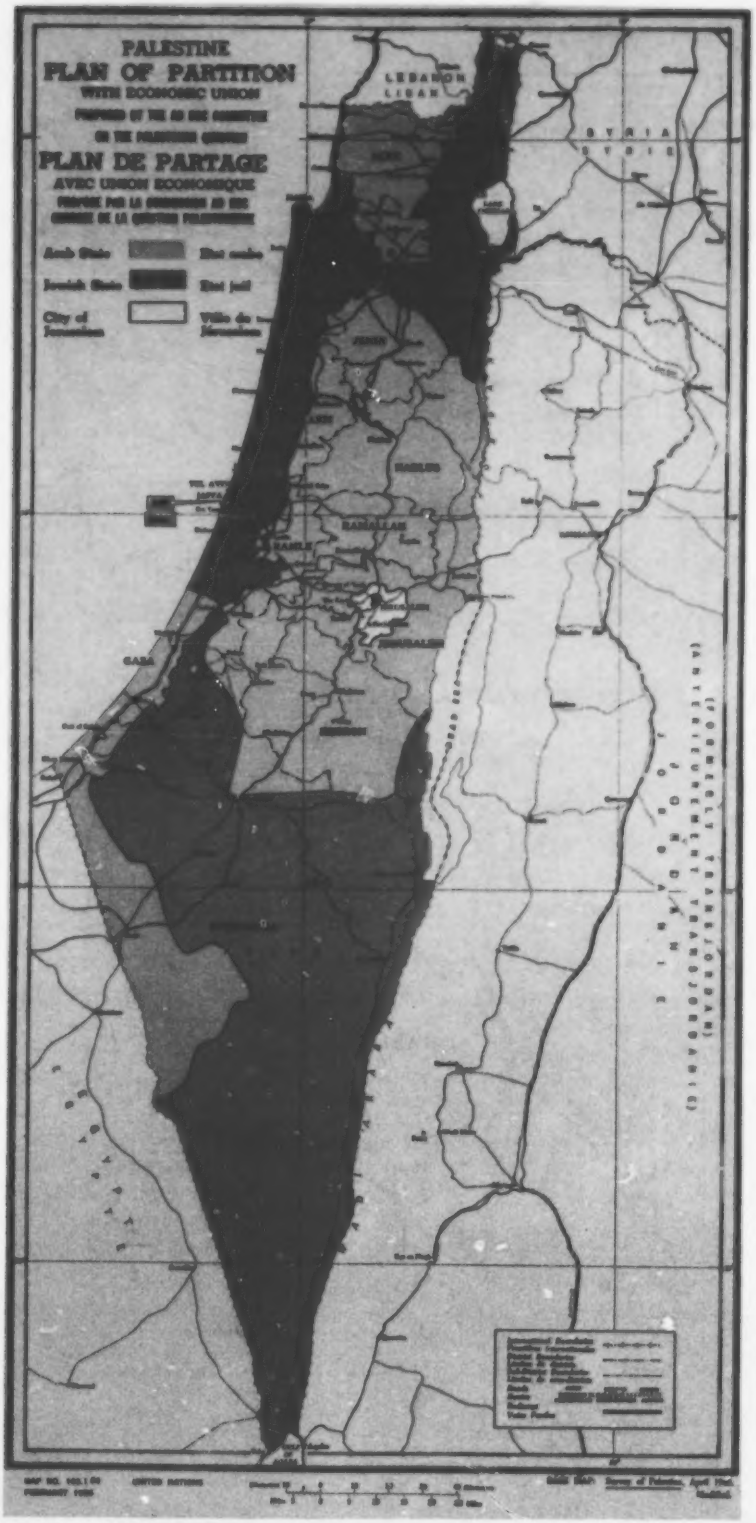
ANNEX I

The Partition Plan, 1947

ANNEX II

The Armistice Lines of 1949



ANNEX III

United Nations General Assembly resolution 194 (III)
of 11 December 1948

The General Assembly,

Having considered further the situation in Palestine,

1. Expresses its deep appreciation of the progress achieved through the good offices of the late United Nations Mediator in promoting a peaceful adjustment of the future situation of Palestine, for which cause he sacrificed his life; and

Extends its thanks to the Acting Mediator and his staff for their continued efforts and devotion to duty in Palestine;

2. Establishes a Conciliation Commission consisting of three States Members of the United Nations which shall have the following functions:

(a) To assume, in so far as it considers necessary in existing circumstances, the functions given to the United Nations Mediator on Palestine by resolution 182 (S-2) of the General Assembly of 14 May 1948;

(b) To carry out the specific functions and directives given to it by the present resolution and such additional functions and directives as may be given to it by the General Assembly or by the Security Council;

(c) To undertake, upon the request of the Security Council, any of the functions now assigned to the United Nations Mediator on Palestine or to the United Nations Truce Commission by resolutions of the Security Council; upon such request to the Conciliation Commission by the Security Council with respect to all the remaining functions of the United Nations Mediator on Palestine under Security Council resolutions, the office of the Mediator shall be terminated;

3. Decides that a Committee of the Assembly, consisting of China, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, shall present, before the end of the first part of the present session of the General Assembly, for the approval of the Assembly, a proposal concerning the names of the three States which will constitute the Conciliation Commission;

4. Requests the Commission to begin its functions at once, with a view to the establishment of contact between the parties themselves and the Commission at the earliest possible date;

5. Calls upon the Governments and authorities concerned to extend the scope of the negotiations provided for in the Security Council's resolution of 16 November 1948 and to seek agreement by negotiations conducted either with the Conciliation Commission or directly, with a view to the final settlement of all questions outstanding between them;

6. Instructs the Conciliation Commission to take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them;

7. Resolves that the Holy Places - including Nazareth - religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice; that arrangements to this end should be under effective United Nations supervision; that the United Nations Conciliation Commission, in presenting to the fourth regular session of the General Assembly its detailed proposals for a permanent international régime for the territory of Jerusalem, should include recommendations concerning the Holy Places in that territory, that with regard to the Holy Places in the rest of Palestine the Commission should call upon the political authorities of the areas concerned to give appropriate formal guarantees as to the protection of the Holy Places and access to them, and that these undertakings should be presented to the General Assembly for approval;

8. Resolves that, in view of its association with three world religions, the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem, the most western, Ein Karim (including also the built-up area of Motsa); and the most northern Shu'fat, should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control;

Requests the Security Council to take further steps to ensure the demilitarization of Jerusalem at the earliest possible date;

Instructs the Commission to present to the fourth regular session of the General Assembly detailed proposals for a permanent international régime for the Jerusalem area which will provide for the maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area;

The Conciliation Commission is authorized to appoint a United Nations representative, who shall co-operate with the local authorities with respect to the interim administration of the Jerusalem area;

9. Resolves that, pending agreement on more detailed arrangements among the Governments and authorities concerned, the freest possible access to Jerusalem by road, rail or air should be accorded to all inhabitants of Palestine;

Instructs the Conciliation Commission to report immediately to the Security Council, for appropriate action by that organ, any attempt by any party to impede such access;

10. Instructs the Conciliation Commission to seek arrangements among the Governments and authorities concerned which will facilitate the economic development of the area, including arrangements for access to ports and airfields and the use of transportation and communication facilities;

11. Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;

Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations;

12. Authorizes the Conciliation Commission to appoint such subsidiary bodies and to employ such technical experts, acting under its authority, as it may find necessary for the effective discharge of its functions and responsibilities under the present resolution;

The Conciliation Commission will have its official headquarters at Jerusalem. The authorities responsible for maintaining order in Jerusalem will be responsible for taking all measures necessary to ensure the security of the Commission. The Secretary-General will provide a limited number of guards for the protection of the staff and premises of the Commission;

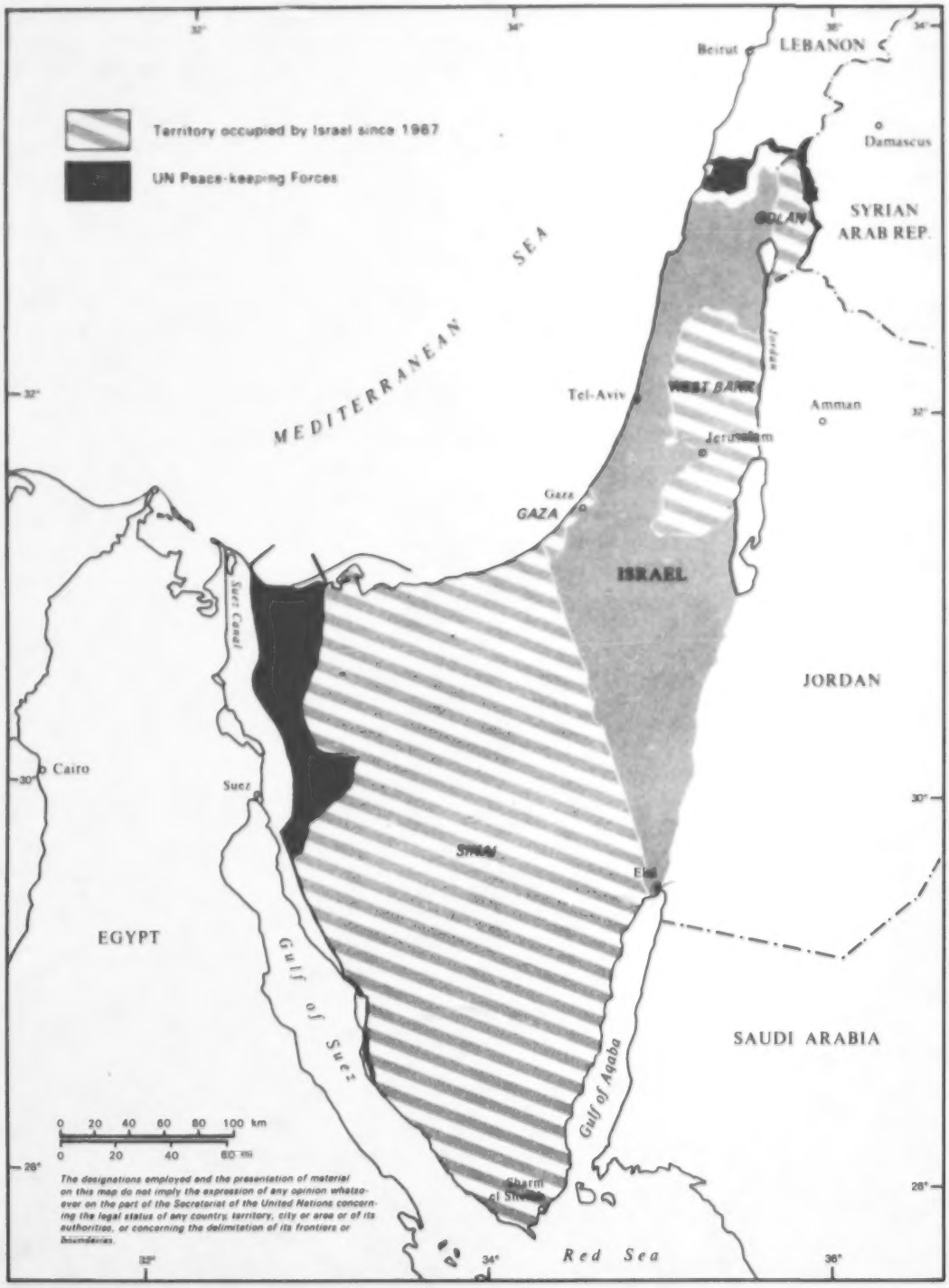
13. Instructs the Conciliation Commission to render progress reports periodically to the Secretary-General for transmission to the Security Council and to the Members of the United Nations;

14. Calls upon all Governments and authorities concerned to co-operate with the Conciliation Commission and to take all possible steps to assist in the implementation of the present resolution;

15. Requests the Secretary-General to provide the necessary staff and facilities and to make appropriate arrangements to provide the necessary funds required in carrying out the terms of the present resolution.

ANNEX IV

Territories occupied by Israel, June 1967



MAP NO. 3014 UNITED NATIONS
NOVEMBER 1978

ANNEX V

Aide-mémoire presented to Israel and the United Arab Republic by Ambassador Jarring on 8 February 1971

I have been following with a mixture of restrained optimism and growing concern the resumed discussions under my auspices for the purpose of arriving at a peaceful settlement of the Middle East question. My restrained optimism arises from the fact that in my view the parties are seriously defining their positions and wish to move forward to a permanent peace. My growing concern is that each side unyieldingly insists that the other make certain commitments before being ready to proceed to the stage of formulating the provisions to be included in a final peace agreement. There is, as I see it, a serious risk that we shall find ourselves in the same deadlock that existed during the first three years of my mission.

I therefore feel that I should at this stage make clear my views on what I believe to be the necessary steps to be taken in order to achieve a peaceful and accepted settlement in accordance with the provisions and principles of Security Council resolution 242 (1967), which the parties have agreed to carry out in all its parts.

I have come to the conclusion that the only possibility to break the imminent deadlock arising from the differing views of Israel and the United Arab Republic as to the priority to be given to commitments and undertakings - which seems to me to be the real cause for the present immobility - is for me to seek from each side the parallel and simultaneous commitments which seem to be inevitable prerequisites of an eventual peace settlement between them. It should thereafter be possible to proceed at once to formulate the provisions and terms of a peace agreement not only for those topics covered by the commitments, but with equal priority for other topics, and in particular the refugee question.

Specifically, I wish to request the Governments of Israel and the United Arab Republic to make to me at this stage the following prior commitments simultaneously and on condition that the other party makes its commitments and subject to the eventual satisfactory determination of all other aspects of a peace settlement, including in particular a just settlement of the refugee problem.

1. Israel

Israel would give a commitment to withdraw its forces from occupied United Arab Republic territory to the former international boundary between Egypt and the British Mandate of Palestine on the understanding that satisfactory arrangements are made for:

(a) Establishing demilitarized zones;

(b) Practical security arrangements in the Sharm el Sheikh area for guaranteeing freedom of navigation through the Straits of Tiran;

(c) Freedom of navigation through the Suez Canal.

2. United Arab Republic

The United Arab Republic would give a commitment to enter into a peace agreement with Israel and to make explicitly therein to Israel, on a reciprocal basis, undertakings and acknowledgements covering the following subjects:

(a) Termination of all claims or states of belligerency;

(b) Respect for and acknowledgement of each other's sovereignty, territorial integrity and political independence;

(c) Respect for and acknowledgement of each other's right to live in peace within secure and recognised boundaries;

(d) Responsibility to do all in their power to ensure that acts of belligerency or hostility do not originate from or are not committed from within their respective territories against the population, citizens or property of the other party;

(e) Non-interference in each other's domestic affairs.

In making the above-mentioned suggestion I am conscious that I am requesting both sides to make serious commitments but I am convinced that the present situation requires me to take this step.

ANNEX VI

RECOMMENDATIONS OF THE COMMITTEE ON THE EXERCISE OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

I. BASIC CONSIDERATIONS AND GUIDELINES

The question of Palestine is at the heart of the Middle East problem, and, consequently, the Committee stresses its belief that no solution in the Middle East can be envisaged which does not fully take into account the legitimate aspirations of the Palestinian people.

The legitimate and inalienable rights of the Palestinian people to return to their homes and property and to achieve self-determination, national independence and sovereignty are endorsed by the Committee in the conviction that the full implementation of these rights will contribute decisively to a comprehensive and final settlement of the Middle East crisis.

The participation of the Palestine Liberation Organization, the representative of the Palestinian people, on an equal footing with other parties, on the basis of General Assembly resolutions 3236 (XXIX) and 3375 (XXX) is indispensable in all efforts, deliberations and conferences on the Middle East which are held under the auspices of the United Nations.

The Committee recalls the fundamental principle of the inadmissibility of the acquisition of territory by force and stresses the consequent obligation for complete and speedy evacuation of any territory so occupied.

The Committee considers that it is the duty and the responsibility of all concerned to enable the Palestinians to exercise their inalienable rights.

The Committee recommends an expanded and more influential role by the United Nations and its organs in promoting a just solution to the question of Palestine and in the implementation of such a solution. The Security Council, in particular, should take appropriate action to facilitate the exercise by the Palestinians of their right to return to their homes, lands and property. The Committee, furthermore, urges the Security Council to promote action towards a just solution, taking into account all the powers conferred on it by the Charter of the United Nations.

It is with this perspective in view and on the basis of the numerous resolutions of the United Nations, after due consideration of all the facts, proposals and suggestions advanced in the course of its deliberations, that the Committee submits its recommendations on the modalities for the implementation of the exercise of the inalienable rights of the Palestinian people.

II. THE RIGHT OF RETURN

The natural and inalienable right of Palestinians to return to their homes is recognized by resolution 194 (III), which the General Assembly has reaffirmed almost every year since its adoption. This right was also unanimously recognized by the Security Council in its resolution 237 (1967); the time for the urgent implementation of these resolutions is long overdue.

Without prejudice to the right of all Palestinians to return to their homes, lands and property, the Committee considers that the programme of implementation, of the exercise of this right may be carried out in two phases:

Phase one

The first phase involves the return to their homes of the Palestinians displaced as a result of the war of June 1967. The Committee recommends that:

(i) The Security Council should request the immediate implementation of its resolution 237 (1967) and that such implementation should not be related to any other condition;

(ii) The resources of the International Committee of the Red Cross (ICRC) and/or of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, suitably financed and mandated, may be employed to assist in the solution of any logistical problems involved in the resettlement of those returning to their homes. These agencies could also assist, in co-operation with the host countries and the Palestine Liberation Organization, in the identification of the displaced Palestinians.

Phase two

The second phase deals with the return to their homes of the Palestinians displaced between 1948 and 1967. The Committee recommends that:

(i) While the first phase is being implemented, the United Nations in co-operation with the States directly involved, and the Palestine Liberation Organization as the interim representative of the Palestinian entity, should proceed to make the necessary arrangements to enable Palestinians displaced between 1948 and 1967 to exercise their right to return to their homes and property, in accordance with the relevant United Nations resolutions, particularly General Assembly resolution 194 (III);

(ii) Palestinians not choosing to return to their homes should be paid just and equitable compensation as provided for in resolution 194 (III).

III. THE RIGHT TO SELF-DETERMINATION, NATIONAL INDEPENDENCE AND SOVEREIGNTY

The Palestinian people has the inherent right to self-determination, national independence and sovereignty in Palestine. The Committee considers that the evacuation of the territories occupied by force and in violation of the principles of the Charter and relevant resolutions of the United Nations is a conditio sine qua non for the exercise by the Palestinian people of its inalienable rights in Palestine. The Committee considers, furthermore, that upon the return of the Palestinians to their homes and property and with the establishment of an independent Palestinian entity, the Palestinian people will be able to exercise its rights to self-determination and to decide its form of government without external interference.

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The Committee also feels that the United Nations has an historical duty and responsibility to render all assistance necessary to promote the economic development and prosperity of the Palestinian entity.

To these ends, the Committee recommends that:

(a) A timetable should be established by the Security Council for the complete withdrawal by Israeli occupation forces from those areas occupied in 1967; such withdrawal should be completed no later than 1 June 1977;

(b) The Security Council may need to provide temporary peace-keeping forces in order to facilitate the process of withdrawal;

(c) Israel should be requested by the Security Council to desist from the establishment of new settlements and to withdraw during this period from settlements established since 1967 in the occupied territories. Arab property and all essential services in these areas should be maintained intact;

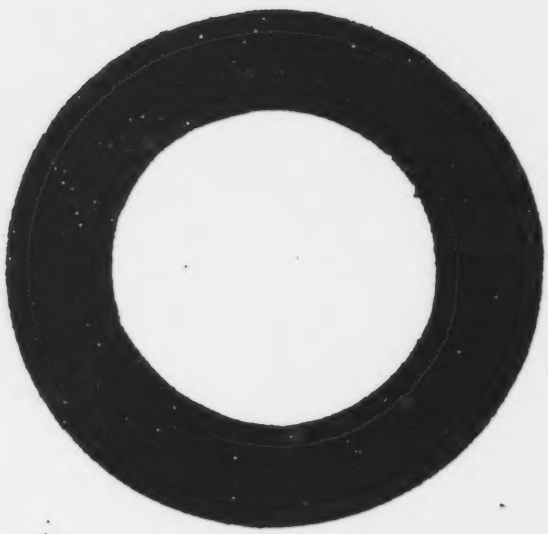
(d) Israel should also be requested to abide scrupulously by the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and to declare, pending its speedy withdrawal from these territories, its recognition of the applicability of that Convention;

(e) The evacuated territories, with all property and services intact, should be taken over by the United Nations, which with the co-operation of the League of Arab States, will subsequently hand over these evacuated areas to the Palestine Liberation Organization as the representative of the Palestinian people;

(f) The United Nations should, if necessary, assist in establishing communications between Gaza and the West Bank;

(g) As soon as the independent Palestinian entity has been established, the United Nations, in co-operation with the States directly involved and the Palestinian entity, should, taking into account General Assembly resolution 3375 (XXX), make further arrangements for the full implementation of the inalienable rights of the Palestinian people, the resolution of outstanding problems and the establishment of a just and lasting peace in the region, in accordance with all relevant United Nations resolutions;

(h) The United Nations should provide the economic and technical assistance necessary for the consolidation of the Palestinian entity.



PART III

1978-1983

INTRODUCTION

The evolution of the question of Palestine from its beginning up to the year 1977 has been dealt with in parts I and II of the present study. Since 1978 the question has remained in the forefront of United Nations attention. Its political and humanitarian aspects in particular have reverted to the centre of international attention as never before.

It has become evident that the overwhelming majority of the members of the international community are convinced that the attainment of the legitimate rights of the Palestinian people is a sine qua non for peace in the Middle East.

Certain basic considerations have also emerged which have the acceptance of the majority among the international community. These are that:

(a) The question of Palestine is at the heart of the problem of the Middle East and consequently no solution to the Middle East problem can be envisaged without taking into account the inalienable rights of the Palestinian people;

(b) The realization of the inalienable rights of the Palestinian people to return to their homes and to self-determination, and the right to establish their own independent State in Palestine will contribute to a solution of the crisis in the Middle East;

(c) The participation of the Palestine Liberation Organization (PLO), the representative of the Palestinian people, on an equal footing with all other parties on the basis of General Assembly resolutions 3236 (XXIX) and 3375 (XXX), is indispensable in all efforts, deliberations and conferences on the question of Palestine and the situation in the Middle East undertaken under the auspices of the United Nations;

(d) The acquisition of territory by force is inadmissible and hence the obligation which devolves on Israel to withdraw completely and unconditionally from all territory so occupied.

These views have been expressed repeatedly and unanimously by intergovernmental organizations such as the Conference of Heads of State or Government of Non-Aligned Countries, the Organization of African Unity and the Organization of the Islamic Conference and the Warsaw Treaty Organization, as well as by individual Governments.

While many States and organizations have consistently maintained this position, in recent years other governmental groups have also taken positions which appear to approach this conclusion. At the meeting of the Heads of State and Government and Ministers for Foreign Affairs of the European Community in Venice, Italy, in its declaration of 13 June 1980, the then Group of Nine detailed its position on the Middle East. 1/ It declared that the time had come to promote the recognition and implementation of the two principles universally accepted by the international community: the right to existence and security of all States in the region, including Israel, and justice for all the peoples, which implied the recognition of the legitimate rights of the Palestinian people. It took a firm position on the question of Palestine and on the fact that the Palestinian people

must be placed in a position to exercise fully their right to self-determination; that the Palestine Liberation Organization should be associated with the negotiations to that end; that Israel should put an end to the occupation of the territories which it had held since 1967; that Israeli settlements constituted a serious obstacle to peace in the Middle East and were illegal under international law and that the Nine would not accept any unilateral initiative designed to change the status of Jerusalem.

On 28 July 1982, a draft resolution was presented by Egypt and France to the Security Council. In its main provisions the resolution reaffirmed the right of all States in the region to existence and security, as well as the legitimate national rights of the Palestinian people, including the right to self-determination, with all its implications. This draft resolution was never put to a vote.

Furthermore, in September 1983, the International Conference on the Question of Palestine, which was widely attended, adopted inter alia the following principles:

- the need to oppose and reject such Israeli policies and practices in the occupied territories, including Jerusalem, and any de facto situation created by Israel as were contrary to international law and relevant United Nations resolutions, particularly the establishment of settlements;

- the need to reaffirm as null and void all legislative and administrative measures and actions taken by Israel, which had altered or purported to alter the character and status of the Holy City of Jerusalem, including the expropriation of land and property situated thereon, and in particular the so-called "Basic Law" on Jerusalem and the proclamation of Jerusalem as the capital city of Israel;

- the right of all States in the region to existence within secure and internationally recognized boundaries, with justice and security for all the people, the sine qua non of which was the recognition and attainment of the legitimate, inalienable rights of the Palestinian people.

Events on the spot, however, remained on a negative course, although no major offensive took place after the cease-fire agreement signed on 24 July 1981. A period of some nine months of relative stability ensued. After some sporadic but fatal incidents in June 1982, Israel invaded Lebanon initially with the declared intention of driving Palestinians out of a zone 25 miles wide which bordered on Israel. However, after declaring that "its intention was to eliminate the PLO", Israel subsequently moved its troops in Lebanon to Beirut where the forces of the PLO held out for over two months. The PLO's withdrawal from Beirut came only after a cease-fire had been arranged on 14 August which was to be maintained with the help of multinational troops. PLO troops withdrew from Beirut and were transferred to neighbouring countries. After appropriate guarantees of safety were provided for thousands of Palestinian civilians who would be left behind, the Organization's headquarters moved to Tunisia.

On 15 September 1982 Bashir Gemayel, President-elect of Lebanon, was assassinated shortly after the withdrawal of the multinational troops.

Early on the same day, Israeli forces advanced into West Beirut. By 16 September the Israeli army had established its control of most of the West Beirut sector of the city and took up positions around the Palestinian refugee camps. The following day the Security Council unanimously adopted resolution 520 (1982) condemning the recent incursions by Israel into Beirut in violation of the cease-fire agreements and of Security Council resolutions.

On 17 September reports were received that armed men had the previous evening entered the Sabra and Shatila Palestinian refugee camps in West Beirut and were engaging in wholesale killing of the civilian population.

On 18 September it was confirmed that a large-scale massacre had taken place in the refugee camps. A large number of bodies of men, women and children were found, some of them mutilated, many of them apparently killed while trying to escape; many homes had been blown up with their occupants still inside; there also appeared to be a mass grave on the perimeter of one of the camps.

The events in Lebanon in the summer of 1982 once again highlighted the need for a settlement of the question of Palestine. International interest in urgently finding some solution was again reflected in the various proposals made at the time.

On 1 September 1982, President Reagan made detailed proposals summarizing the position of the United States of America regarding a comprehensive Middle East settlement which, in the view of the United States Government, would take into account the preoccupation of all parties and would respond to the legitimate rights of the Palestinian people. Self-government by the Palestinians of the West Bank and Gaza, in association with Jordan, offered the best chance for a durable, just and lasting peace. This approach was based on the principle that the Arab-Israeli conflict should be resolved through negotiations involving an exchange of territory for peace. This exchange is enshrined in United Nations Security Council resolution 242 (1967). He remained convinced that Jerusalem must remain undivided, but its final status should be decided through negotiations. 2/ However, these proposals were immediately rejected by Israel and were subsequently criticized by most Arab States which felt that the proposals fell short of ensuring Palestinians the exercise of their rights in Palestine.

On 9 September 1982, the twelfth Arab Summit Conference, held at Fez, Morocco, adopted an eight-point peace plan for the Middle East: 3/

(a) The withdrawal of Israel from all the Arab territories occupied by it in 1967, including Arab Jerusalem;

(b) The dismantling of the settlements established by Israel in the Arab territories since 1967;

(c) The guaranteeing of freedom of worship and performance of religious rites of all religions in the Holy Places;

(d) The reaffirmation of the right of the Palestinian people to self-determination and to the exercise of their inalienable and imprescriptible national rights, under the leadership of the Palestine Liberation Organization, their sole and legitimate representative, and the indemnification of those who did not desire to return;

(e) The placing of the West Bank and the Gaza Strip under the control of the United Nations for a transitional period not exceeding a few months;

(f) The establishment of an independent Palestinian State with Jerusalem as its capital;

(g) The establishment by the United Nations Security Council of guarantees of peace between all States of the region, including the independent Palestinian State;

(h) The guaranteeing by the Security Council of the implementation of these principles.

Although rejected by Israel, these proposals, which converge on many points with the position of the United Nations as initially recommended by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, have been regarded by many as a sound basis for a settlement.

On 15 September 1982 a six-point plan for the Middle East settlement was presented by L. I. Brezhnev, Chairman of the Presidium of the Supreme Soviet and General Secretary of the Central Committee of the Communist Party of the Soviet Union. These six points, subsequently reaffirmed on 5 January 1983 by the Political Consultative Committee of the States Parties to the Warsaw Treaty, were: the inadmissibility of the acquisition of territory by force, and consequently, the need for the complete withdrawal of Israel from all Arab territories occupied since 1967, the Golan Heights, the West Bank of the Jordan, including the eastern part of Jerusalem, the Gaza Strip and the Lebanese territories; the exercise in practice of the inalienable rights of the Arab people of Palestine to self-determination and to the establishment of their own independent State in the Palestinian territories - the West Bank of the Jordan and the Gaza Strip; safeguarding the right of all States in the region to secure an independent existence and development on a basis of complete reciprocity; termination of the state of war and the establishment of peace between the Arab States and Israel; and the elaboration and adoption of international guarantees of a peaceful settlement. 4/

The events of the summer of 1982 also had their reflection in the United Nations, both in the General Assembly and in the Security Council.

I. PALESTINE AND THE UNITED NATIONS, 1978-1983

The General Assembly has repeatedly reaffirmed the inalienable rights of the people of Palestine to self-determination without external interference and to national independence and sovereignty in Palestine. It has also reaffirmed the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted. The Assembly also emphasized that full respect for the realization of the inalienable rights of the people of Palestine was indispensable for a solution of the problem and recognized that the Palestinian people is a principal party in the establishment of a just and lasting peace in the Middle East. In 1974 the Assembly had conferred on the PLO the status of observer in the Assembly and in other international conferences held under United Nations auspices. 5/ The representative of the PLO has since been invited to participate in the Security Council debates and that invitation has conferred upon it the same rights of participation as those conferred on a Member State when it is invited to participate under rule 37 of the provisional rules of procedure of the Security Council. In the International Conference on the Question of Palestine, the PLO participated in it as the representative of the party most directly concerned. The Conference decided that the PLO delegation should be placed among the full participants in the Conference.

The Assembly has also repeatedly endorsed the recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and has urged the Council to do so as soon as possible. However, many of the resolutions adopted by the United Nations in the General Assembly and the Security Council on the question of Palestine have not been implemented and the wider Arab-Israeli tension and the situation in the Middle East are still unresolved. The matter remains before the Security Council.

A. Emergency special session of the General Assembly on the question of Palestine

In view of the constantly deteriorating situation in the region, and the fact that the Security Council was unable to adopt and implement the recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People endorsed by the General Assembly for lack of unanimity among its permanent members, the question of Palestine was considered by the General Assembly in an emergency special session held between 22 and 29 July 1980.

Resolution ES-7/2 was adopted by 112 votes in favour to 7 against, with 24 abstentions.

In it, the General Assembly recalled and reaffirmed its resolutions 3236 and 3237 (XXIX) and all other relevant United Nations resolutions pertinent to the question of Palestine. It reaffirmed that a comprehensive, just and lasting peace in the Middle East could not be established without the withdrawal of Israel from all the occupied Palestinian and other Arab territories, including Jerusalem, and without the achievement of a just solution of the problem of Palestine on the basis of the attainment of the inalienable rights of the Palestinian people in Palestine. It reaffirmed also the inalienable rights of the Palestinian people in Palestine including the right to return, the right to self-determination and the right to establish its own independent sovereign State. The General Assembly

reaffirmed the right of the Palestine Liberation Organization, the representative of the Palestinian people, to participate on an equal footing in all efforts, deliberations and conferences on the question of Palestine and the situation in the Middle East within the framework of the United Nations. It reaffirmed the fundamental principle of the inadmissibility of the acquisition of territory by force, called upon Israel to withdraw from all the Palestinian and other Arab territories occupied since 1967, including Jerusalem, and urged that such withdrawal should start before 15 November 1980. It also demanded that Israel comply with all United Nations resolutions relevant to the historic character of the Holy City of Jerusalem. It expressed its opposition to all policies and plans aimed at the resettlement of the Palestinians outside of their homeland. The General Assembly requested and authorized the Secretary-General to take the necessary measures towards the implementation of the recommendations contained in paragraphs 59 to 72 of the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People as a basis for the solution of the question of Palestine. It also requested the Secretary-General to report to the General Assembly at its thirty-fifth session on the implementation of the present resolution. It also requested the Security Council, in the event of non-compliance by Israel, to convene in order to consider the situation and the adoption of effective measures under Chapter VII of the Charter. It decided to adjourn temporarily and to authorize the President of the latest regular session of the General Assembly to resume its meetings upon request from Member States.

In recent years, General Assembly resolutions endorsing the recommendations of the Committee have had increasing support in the voting. In 1980 a resolution was adopted by 98 in favour to 16 against with 32 abstentions. In 1981 the voting pattern was 111 to 12 with 20 abstentions and, in 1982, 119 in favour to 2 against with 21 abstentions; in 1983, 126 in favour to 2 against with 19 abstentions.

As a consequence of further grave incidents, the seventh emergency special session of the General Assembly was resumed in April, June, August and September 1982, a clear indication of the international concern given to the question of Palestine.

B. Invasion of Lebanon by Israel in 1982

When Israel invaded Lebanon on 4 June 1982 the Security Council met urgently and on 5 and 6 June unanimously adopted resolutions 508 (1982) and 509 (1982) respectively. These resolutions, inter alia, called upon all the parties to the conflict to cease all military activities within Lebanon immediately and simultaneously demanded that Israel should withdraw its military forces from Lebanon forthwith and unconditionally. The texts of the two resolutions are annexed (annex II).

Cease-fire arrangements had come into effect on 12 August 1982 but the Security Council met on 17 September 1982 to consider the situation in Lebanon in the light of Israeli incursions into West Beirut. In resolution 520 (1982), the Security Council condemned Israeli incursions into West Beirut and demanded an immediate return to the positions occupied by Israel before 15 September 1982. The text of the resolution is annexed (annex II).

In November 1983, following disaffection within the PLO, hostilities broke out between some armed elements in and around the Lebanese city of Tripoli.

On 23 November the Security Council unanimously adopted resolution 542 (1983) by which it requested the parties concerned immediately to accept a cease-fire and invited them to settle their differences exclusively by peaceful means. The text of the resolution is attached (annex II).

In December the Chairman of the Executive Committee of the PLO, Yasser Arafat, accompanied by 3,000 armed elements and 1,000 militia, embarked from Tripoli aboard Greek ships. The Secretary-General, after having had consultations with the members of the Security Council, agreed to the request that a United Nations flag be flown over the evacuation ships as a humanitarian gesture.

Massacres of Palestinian civilians in the refugee camps of Sabra and Shatila occurred on 17 and 18 September 1982, when several hundred men, women and children were brutally killed. In this connection, the Israeli Government decided on 28 September to authorize the establishment of an independent judicial inquiry into the political and military circumstances of the Beirut massacre. The report was published on 8 February 1983. 6/ Another investigation has been carried out by the Lebanese Government but its findings are not yet available.

On 19 September the Security Council unanimously adopted resolution 521 (1982) condemning the massacre and requesting the Secretary-General to take steps aimed at ensuring full protection of civilians in and around Beirut. The text of the resolution is attached (annex II).

At a one-meeting resumption of its seventh emergency special session on the question of Palestine on 24 September 1982, the Assembly adopted resolution ES-7/9 by a recorded vote of 147 in favour to 2 against, with no abstentions. Separate votes were taken on two operative paragraphs of that resolution. Operative paragraph 2, by which the Assembly urged the Security Council to investigate, through the means available to it, the circumstances and extent of the massacre of Palestinian and other civilians in Beirut on 17 September 1982, and to make public the report on its findings as soon as possible, was adopted by a vote of 146 in favour to none against, with no abstentions. Operative paragraph 4, by which the Assembly demanded that all Member States and other parties observe strict respect for the sovereignty, territorial integrity, unity and political independence of Lebanon within its internationally recognized boundaries, was adopted by a recorded vote of 149 in favour to none against, with no abstentions. The text of the resolution is attached (annex II).

When the question of Palestine was considered by the General Assembly from 30 November to 2 December 1982, in resolution 37/86 D, the Assembly reaffirmed the principle of inadmissibility of the acquisition of territory by force and also reaffirmed that a comprehensive, just and lasting peace in the Middle East could not be established without the unconditional withdrawal of Israel from the Palestinian and other Arab territories occupied since 1967, including Jerusalem, and without the exercise and attainment by the Palestinian people of its inalienable rights in Palestine in accordance with the principles of the Charter and the relevant resolutions of the United Nations. It requested the Security Council to discharge its responsibilities under the Charter and recognize the inalienable rights of the Palestinian Arab people, including the right to self-determination and the right to establish its independent Arab State in Palestine. The Assembly reiterated its request that the Security Council take the necessary measures, in execution of the relevant United Nations resolutions, "to implement the plan which, inter alia, recommends that an independent Arab State shall come into existence in Palestine".

In resolution 37/86 E, the Assembly recalled, in particular, the principles relevant to the question of Palestine that had been accepted by the international community, including the right of all States in the region to existence within internationally recognized boundaries, and justice and security for all the people, which required recognition and attainment of the legitimate rights of the Palestinian people, including the right of self-determination and the right to establish an independent State in Palestine. In conformity with the fundamental principle of the inadmissibility of the acquisition of territory by force, the Assembly demanded that Israel withdraw completely and unconditionally from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem, with all property and services intact. The Assembly urged the Security Council to facilitate the process of Israeli withdrawal and recommended that, following the withdrawal of Israel from the occupied Palestinian territories, those territories should be subjected to a short-term transitional period under the supervision of the United Nations, during which the Palestinian people would exercise their right to self-determination. The Assembly also urgently called for the achievement of a comprehensive, just and lasting peace, based on the resolutions of the United Nations and under its auspices, in which all the parties concerned, including the PLO, the representative of the Palestinian people, would participate on an equal footing.

C. Israeli settlements in the occupied territories

As a result of the Israeli policies and practices in establishing settlements in the Palestinian and other Arab territories, occupied since 1967, in resolution 446 (1979) the Security Council determined that the policy of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 had no legal validity and constituted a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.

It called on Israel to abide scrupulously by the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 7/ and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories.

It also established a Commission consisting of three members of the Security Council to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem, and requested the Commission to submit its report to the Security Council by 1 July 1979. The members of the Commission were Bolivia, Portugal and Zambia under the chairmanship of Portugal.

The Commission was unable to obtain the co-operation of the Government of Israel in the fulfilment of its mandate despite its repeated appeals to Israeli authorities.

In its endeavours to discharge its mandate, the Commission brought up to date the basic information already at the disposal of the Security Council. It determined the consequences of the settlement policy on the local Arab population and assesssed the impact of that policy and its consequences regarding the urgent need to achieve a comprehensive, just and lasting peace in the Middle East. 8/

On 20 July 1979, the Security Council adopted resolution 452 (1979) which commended the work done by the Commission and requested it, in view of the magnitude of the problem of settlements, to report back to the Security Council before 1 November 1979.

Following the submission of the Commission's second report (S/13679), the Security Council, on 1 March 1980, adopted resolution 465 (1980) which commended the work done by the Commission in preparing its second report and accepted the conclusions and recommendations contained in the above-mentioned report. It determined that "all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East". The resolution called upon "all States not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories" and requested the Commission "to continue to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem, to investigate the reported serious depletion of natural resources, particularly the water resources with a view to ensuring the protection of those important natural resources of the territories under occupation, and to keep under close scrutiny the implementation of the present resolution". The Commission was requested to report to the Security Council before 1 September 1980.

In its third report (S/14268), the Commission concluded that:

"In the fulfilment of its mandate and during its contacts with the government authorities, pertinent organizations and private individuals directly concerned, the Commission has examined the situation in the closest manner possible, as the previous reports so indicate. The Commission has noted deep anxiety about what was unanimously considered as a continuous process of detrioration of the situation in the occupied Arab territories, including Jerusalem, which is marked by heightened tensions and increased conflict and could lead to a major conflagration.

"Consequently, after having carefully examined all the elements of information which the Commission has been in a position to gather in the implementation of its mandate, the Commission would like to reaffirm the entirety of the conclusions contained in its two previous reports, and more specifically the following:

"(a) The Israeli Government is actively pursuing its wilful, systematic large-scale process of establishing settlements in the occupied territories;

"(b) A correlation exists between the establishment of Israeli settlements and the displacement of the Arab population;

"(c) In the implementation of its policy of settlements, Israel is resorting to methods - often coercive and sometimes more subtle - which include the control of water resources, the seizure of private property, the destruction of houses and the banishment of persons in complete disregard for basic human rights;

"(d) The settlement policy has brought drastic and adverse changes to the economic and social pattern of the daily life of the remaining Arab population and is causing profound changes of a geographical and demographic nature in the occupied territories, including Jerusalem;

"(e) Those changes constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and of the relevant decisions adopted by the Security Council in the matter.

"Consequently the Commission wishes to reiterate that Israel's policy of settlement, by which, as an example, 33.3 per cent of the West Bank has been confiscated to date, has no legal validity and constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the area.

"In view of the recent deterioration of the situation in the occupied Arab territories, the Commission considers that Israel's settlement policy, with the unjustified sufferings which it imposes on a defenceless population, is an incitement to further unrest and violence.

"The Israeli policy of settlements has led to major displacements and dispossession of Palestinians, adding to the ever-growing number of refugees with all the attendant consequences.

"Available evidence shows that Israeli occupying authorities continue to deplete the natural resources, particularly water resources, in the occupied territories for their advantage and to the detriment of the Palestinian people.

"As water is a scarce and precious commodity in the area, its control and apportionment means control of the most vital means of survival. It would seem, therefore, that Israel employs water both as an economic and even political weapon to further its policy of settlements. Consequently, the economy and agriculture of the Arab population is adversely affected by the exploitation of water resources by the occupying authorities.

"On Jerusalem, the Commission has noted with grave concern that tension and confrontation between Israel and the Islamic world have increased, especially following the enactment of a 'basic law' in the Israeli Knesset, proclaiming a change in the character and status of the Holy City, which has also affected Christendom."

The third report of the Commission has not as yet been considered by the Security Council.

Despite the resolutions of the General Assembly and the Security Council declaring the settlements illegal, Israel has persisted in the pursuit of its policies of establishing settlements in the occupied Arab territories and by 1983 had established 204 settlements and has publicly stated its plan to increase that number in the near future.

D. The status of Jerusalem

Bearing in mind the specific status and special character of the City of Jerusalem and the need for protection and preservation of the unique and spiritual dimension of the Holy Places in Jerusalem, in June 1980, in reaction to proposed legislative action by Israel to make a united Jerusalem its capital, the Security Council considered the question and adopted resolution 476 (1980), by which it deplored the persistence of Israel in changing the physical character, demographic composition, institutional structure and the status of the Holy City. The Security Council was gravely concerned about the legislative steps initiated in the Israeli Knesset with the aim of changing the character and the status of Jerusalem.

After the enactment of the "Basic Law" by Israel the Security Council adopted resolution 478 (1980). In this resolution, the Security Council called upon those States that had established diplomatic missions at Jerusalem to withdraw such missions from the Holy City. As a result, 13 countries withdrew their missions from Jerusalem.

In resolution 35/169 E of 15 December 1980, the General Assembly also censured in the strongest terms the enactment by Israel of the "Basic Law" on Jerusalem which constituted a violation of international law and did not affect the continued application of the Geneva Convention of 1949 in the Palestinian and other Arab territories occupied since June 1967, including administrative measures and actions taken by Israel which altered or purported to alter the character and status of Jerusalem, particularly the "Basic Law" and the proclamation of Jerusalem as the capital of Israel, were null and void and must be rescinded forthwith.

In resolution 36/120 E of 10 December 1981, the General Assembly deplored the persistence of Israel in changing the physical character, the demographic composition, the institutional structure and the status of the Holy City of Jerusalem. It determined once again that all legislative and administrative measures and actions taken by Israel, which had altered or purported to alter the character and status of the Holy City of Jerusalem and in particular, the so-called "Basic Law" and the proclamation of Jerusalem as the capital of Israel, were null and void and must be rescinded forthwith. Israel has however continued to pursue its policies in Jerusalem and to consider Jerusalem its eternal capital.

E. Violation of human rights

Since its establishment by General Assembly resolution 2443 (XXIII) of 19 December 1968, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population in the Occupied Territories has been following developments concerning human rights in the territories occupied by Israel as a result of the war of June 1967. It has reported regularly to the Secretary-General in accordance with its mandate and these reports have been transmitted to the General Assembly. At each session, the General Assembly has renewed the mandate of the Special Committee, requesting the Committee to continue with its investigations. Ever since its inception, the Special Committee has requested the co-operation of the Government of Israel in the execution of its mandate. Israel has refused to co-operate with the Special Committee, including denying it access to the occupied territories in order to examine allegations of violations of human rights received by the Special Committee.

On 22 January 1982, the Special Committee requested the Secretary-General to establish contact with the Israeli Government and to use his good offices to make another effort aimed at securing their co-operation. On 23 February 1982 the Special Committee was informed that the Israeli authorities had not changed their position.

Following the dismissal on 18 March 1982 of the Mayor and Municipal Council of the town of El Bireh by the occupation authorities, strikes and demonstrations took place in several West Bank towns, provoking clashes with Israeli troops and leading to the death of a number of demonstrators. This was followed on 25 March by the summary dismissal of the mayors of Nablus and Ramallah, again leading to further resistance by the local population and corresponding intervention by the Israeli army.

The Special Committee, in its 1982 report (A/37/485), noted that the situation in the occupied territories remained volatile, and the level of determination in the resistance of the civilian population to the occupation clearly was reaching limits that would threaten further violence.

Among the conclusions of the Special Committee in its 1982 report to the thirty-seventh session of the General Assembly were:

> "... the Special Committee continued to apply its mandate and it informed itself on the situation in the occupied territories on the basis of sources considered to be reliable and in any not contradicted by the Government of Israel. The information contained in the preceding chapter led to a fundamental conclusion, namely that the persistent violation of human rights derives from the very fact of a 15-year military occupation and a policy of colonization and annexation of the occupied territories. The Palestinian people as well as the Syrian people under occupation cannot expect to enjoy their fundamental rights so long as they are denied the right to self-determination. None is free to enjoy his rights if he is not himself directly or indirectly responsible and involved in the determination and the application of his rights and obligations as a citizen. In a situation of occupation it is the occupying Power which dictates the limits of these rights. The years of occupation have shown that the Government of Israel as an occupying Power has legislated in such a manner as to subject the civilian population to the Government of Israel's own requisites. The military orders through which Israel has changed law in all areas have exceeded 950 in all. In the Golan Heights, Israel claims to have applied, in its entirety, Israeli legislation which constitutes de facto annexation, and this is a flagrant violation of international law.
>
> "It is therefore vital that the international community recognizes that the violation of human rights in the occupied territories will cease only when the Palestinian people are allowed to enjoy their right to self-determination. The Syrian nationals in the Golan Heights who are themselves under occupation will not secure their own rights until that territory is reintegrated into Syrian territory ...

"The results of the prolonged occupation has led to the complete subjugation of the economy of the occupied territories to the Israeli economy. Agriculture in these territories, which is the main economic sector, is largely conditioned by the vicissitudes of Israeli agriculture. The latter, benefiting from subsidies and centralized planning, has taken control of markets that would normally constitute the outlets for agriculture in the West Bank.

"Parallel to these events and starting in September 1981, the Government of Israel, in its efforts to eliminate the popular base of the municipalities, undertook the establishment of 'village leagues' in various areas. These 'village leagues' are without any popular base and include persons whose reputation and standing in the Palestinian community leave room for doubt. These 'village leagues' have been accorded, over a period of time, such power and influence as to make them indispensable in the daily life of the civilian population in the occupied territories. Originally established as 'charitable organizations' they have already been accorded the power to issue certain permits, as, for example, building permits and permits for summer visits issued to persons wishing to visit relatives abroad ...

"... the Special Committee notes that there is a greater tendency to consolidate the settlements that have already been established and these in particular in those areas considered as being densely populated by Palestinians, as, for example, the peripheries of the towns of Hebron, Nablus and Ramallah. The Special Committee concluded that the argument of security invoked in support of the policy of annexation and settlement is without any justification."

The General Assembly has repeatedly adopted resolutions condemning Israel's policies and actions in the occupied territories. During the thirty-eighth session of the General Assembly, resolution 38/79 D was adopted after consideration of the Special Committee's report (A/38/409) by a vote of 115 in favour to 2 against, with 27 abstentions. The text of the resolution is attached (annex II).

Similar action has been taken by the Human Rights Commission which has also condemned Israel's violation of human rights in the occupied territories, reaffirmed the inalienable rights of the Palestinian people and recognized their right to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations (Official Records of the Economic and Social Council, 1983, Supplement No. 3 (E/1983/13 and Corr.1)).

F. The International Conference on the Question of Palestine

In resolution 36/120 C, the General Assembly decided to convene, under the auspices of the United Nations, an international conference on the question of Palestine not later than 1984, on the basis of General Assembly resolution ES-7/2, for a comprehensive effort to seek effective ways and means to enable the Palestinian people to attain and to exercise its rights.

The gravity of the Palestinian question has reached new heights as a result of the Israeli invasion of Lebanon, the Sabra and Shatila massacres and the creeping annexation of the West Bank. In essence, time seemed to be running out.

Accordingly, at the resumed seventh emergency special session of the General Assembly on the question of Palestine, in resolution ES-7/7 the General Assembly took note of the final communiqué of the Extraordinary Ministerial Meeting of the Co-ordinating Bureau of the non-aligned countries on the question of Palestine and, on the basis of its recommendations, decided to convene the International Conference on the Question of Palestine at the headquarters of UNESCO, in Paris, from 16 to 27 August 1983.

On the basis of the recommendations of the Preparatory Committee for the International Conference on the Question of Palestine, the General Assembly at its thirty-seventh session endorsed the two main objectives of the Conference as:

(a) To increase international awareness of the facts relating to the question of Palestine;

(b) To attain governmental and non-governmental support for effective ways and means to enable the Palestinian people to exercise its inalienable rights in Palestine on the basis of United Nations resolutions. More specifically, the purpose of the Conference was to ensure Palestinian rights and the establishment of a Palestinian State within the framework of action adopted by the General Assembly at its thirty-first session. The Conference would set in motion agreed modalities for the implementation of agreed decisions.

The Preparatory Committee planned five regional meetings to deal with specific themes. The African regional meeting took place at Arusha, United Republic of Tanzania, from 29 March to 12 April 1983. Political and juridical aspects of the question of Palestine were discussed at the meeting. Managua was the site of the Latin American meeting from 11 to 15 April 1983. Its main theme was Palestine and international law. The Western Asia meeting at Sharjah, United Arab Emirates, from 25 to 29 April 1983 dealt with economic, civic, social and cultural conditions of the Palestinians. The Asian regional meeting held at Kuala Lumpur, from 3 to 7 May 1983, discussed the question of Palestine and world politics. The European meeting took place at Geneva, from 4 to 8 July 1983 and took up the issue of the United Nations role and the future of Palestine.

At each regional preparatory meeting for the International Conference on the Question of Palestine, recommendations were adopted which formed part of the documentation of the Conference.

The International Conference on the Question of Palestine was held at the United Nations Office at Geneva from 29 August to 7 September 1983, in conformity with General Assembly resolution 36/120 C of 10 December 1982, and with the subsequent recommendations of the Preparatory Committee.

Of high importance was the representative character of the Conference. Representative attendance of such a high level and in such large numbers reflected the hopes of the international community that the Conference would contribute to genuine peace and security and manifest the new, quasi-global consensus which has unequivocally emerged for the achievement of Palestinian rights.

One hundred and thirty-seven States attended the Conference, 20 of them as observers. The PLO participated in the Conference as the representative of the party most directly concerned. The Conference decided that, in the spirit of

General Asssembly resolutions 3210 (XXIX) and 3375 (XXX) of 14 October 1974 and 10 November 1975 respectively, the delegation of the Palestine Liberation Organization should be placed among the full participants in the Conference.

In addition, 25 intergovernmental organizations, United Nations bodies and programmes, as well as specialized agencies and related organizations, participated in the work of the Conference. A total of 104 non-governmental organizations were represented by observers. Sixteen eminent persons made their valuable contributions. This overwhelming international presence spoke for itself: never before have so many governmental representatives, representing an overwhelming percentage of humanity, and so many non-governmental organizations devoted so much time and energy exclusively and directly to the rights of the Palestinian people, rights to which the people of Palestine are entitled no less than other peoples.

At its eighth plenary session, the Conference heard a statement by Yasser Arafat, Chairman of the Executive Committee of the PLO.

In his address, he deplored the negative role of the United States in the Security Council and explained the reasons why the Palestine Liberation Organization could not accept the proposal advanced by President Reagan. The Palestine National Council accepted the Arab peace plan adopted by the twelfth Arab Summit Conference at Fez on 9 September 1982 and supported the peace initiative of the Soviet Union.

Mr. Arafat stressed that the people of Palestine rejected war and were fighting for justice. He expressed the hope that the Conference could advance the search for practical means to secure the inalienable rights of the Palestinian people.

In that regard, the PLO wished to put forward the following considerations:

(a) The Middle East region should remain secure from monopolization by any one Power in the world;

(b) Regaining of the rights of the Palestinian people was a legitimate international responsibility;

(c) The Fez Summit resolutions provided the minimum base for the attainment of justice;

(d) The only basis for peace in the region was the exercise of the Palestinian people's right to return, self-determination and national independence;

(e) The continuation of Israeli military aggression with United States support destroyed any prospects for peace;

(f) United States-Israeli policies which called for capitulation were rejected by the PLO;

(g) The PLO was ready to co-operate with the United Nations system within the framework of its resolutions relating to the question of Palestine. The PLO called for an international conference, under the auspices of the United Nations, in which the two major Powers would participate with all concerned parties in accordance with relevant United Nations resolutions.

Mr. Arafat conveyed his greetings to democratic Jewish forces in and outside Israel that had rejected Israel's policies against the Palestinian people.

He stressed that all efforts to destroy the Palestine Liberation Organization and to liquidate its infrastructure had failed. The Organization was determined to continue the struggle until victory.

At its concluding session on 7 September 1983, the Conference adopted, by acclamation, the Geneva Declaration on Palestine and the Programme of Action for the Achievement of Palestinian Rights. The Geneva Declaration on Palestine contains guidelines, consistent with the principles of international law, which have been presented on this question, such as the Arab Peace Plan, adopted at the twelfth Arab Summit Conference in Fez, in September 1982, which should serve as a basis for concerted international efforts to resolve the question of Palestine. The Declaration calls for the convening under the auspices of the United Nations of an international peace conference on the Middle East with the participation of all parties to the Arab-Israeli conflict including the Palestine Liberation Organization, as well as the United States of America, the Union of Soviet Socialist Republics, and other concerned States, on an equal footing. The Programme of Action for the Achievement of Palestinian Rights consists of recommendations addressed to Member States, to the Security Council, the Secretary-General and organs and bodies of the United Nations system, as well as to world-wide public opinion to undertake concrete action to assist the Palestinian people in securing and implementing its inalienble rights, in particular, the establishment of a sovereign State of its own in Palestine.

At its thirty-eighth session, the General Assembly, in resolution A/38/58 A endorsed once more the recommendations of the Committee; it also requested the Committee to keep under review the implementation of the Programme of Action for the Achievement of Palestinian Rights adopted by the International Conference.

The General Assembly, in resolution 38/58 C endorsed the Geneva Declaration, as well as the call for convening an international peace conference on the Middle East, in conformity with the following guidelines:

(a) The attainment by the Palestinian people of its legitimate inalienable rights, including the right to return, the right to self-determination and the right to establish its own independent State in Palestine;

(b) The right of the Palestine Liberation Organization, the representative of the Palestinian people, to participate on an equal footing with other parties in all efforts, deliberations and conferences on the Middle East;

(c) The need to put an end to Israel's occupation of the Arab territories, in accordance with the principle of the inadmissibility of the acquisition of territory by force, and consequently, the need to secure Israeli withdrawal from the territories occupied since 1967, including Jerusalem;

(d) The need to oppose and reject such Israeli policies and practices in the occupied territories, including Jerusalem, and any de facto situation created by Israel as are contrary to international law and relevant United Nations resolutions, particularly the establishment of settlements, as these policies and practices constitute major obstacles to the achievement of peace in the Middle East;

(e) The need to reaffirm as null and void all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purported to alter the character and status of the Holy City of Jerusalem, including the expropriation of land and property situated thereon, and in particular the so-called "Basic Law" on Jerusalem and the proclamation of Jerusalem as the capital of Israel;

(f) The right of all States in the region to existence within secure and internationally recognized boundaries, with justice and security for all the people, the sine qua non of which is the recognition and attainment of the legitimate, inalienable rights of the Palestinian people as stated in subparagraph (a) above.

The General Assembly invites all parties to the Arab-Israeli conflict, including the PLO, as well as the United States of America, the Union of Soviet Socialist Republics and other concerned States, to participate in the International Peace Conference on the Middle East on an equal footing and with equal rights.

II. CONCLUSION

The question of Palestine and the situation in the Middle East continues to dominate international affairs and remains vitally important to the political and economic stability of the region and of the world at large.

In his report of 1981 on the work of the United Nations, the Secretary-General stated:

> "The United Nations has since 1948 been engaged in a practical way in operations designed to control conflict in the Middle East. Without these efforts the situation would undoubtedly be infinitely more dangerous and destructive than it actually is. The Organization is also a universal forum in the framework of which efforts to evolve a peaceful settlement may in the end best be pursued. Such efforts will require not only the participation of all concerned, but their active determination to succeed. The issues are well known and include the right of all States in the area to live in peace, within secure and recognized boundaries free from threats or acts of force, the inalienable rights of the Palestinian people, including their right to self-determination, and withdrawal from occupied territories. In this context, the question of Jerusalem remains of primary importance. We need urgently, in the interests of world peace as well as of the peoples of the Middle East, to take every possible step to encourage the will to negotiate and to settle on a solution to the central and obdurate problem of the Middle East."

And in 1982:

> "It is absolutely essential that serious negotiations on the various aspects of the [the Middle East] problem involve all the parties concerned at the earliest possible time. Far too much time has already elapsed, far too many lives and far too many opportunities have been lost, and too many <u>faits accomplis</u> have been created.
>
> "I feel that the Security Council, the only place in the world where all the parties concerned can sit at the same table, could become a most useful forum for this absolutely essential effort."

In its report to the thirty-eighth session of the General Assembly, the Committee on the Exercise of the Inalienable Rights of the Palestinian People considered the final documents of the International Conference on the Question of Palestine to be of great value for a comprehensive, just and lasting political settlement of the question of Palestine. While unanimously supporting the Geneva Declaration and the Programme of Action, the Committee appealed to the General Assembly at its thirty-eighth session and to the Security Council to endorse those documents and to give full support for their implementation.

The Committee recommended resolute action by all nations, particularly those in the region, through the Security Council, so that the present destructive momentum will be revised, conflict will cease and a steady course of action in the search for durable and comprehensive peace will be set in motion.

The Committee also recommended that concrete actions be undertaken in order to convene an international peace conference on the Middle East as it was proposed at the International Conference on the Question of Palestine and appeals to all parties concerned, as well as the United States of America and the Union of Soviet Socialist Republics to co-operate fully on this matter.

Notes

1/ A/35/299-S/14009.

2/ The New York Times, 2 September 1982, sect. A. p. 11.

3/ A/37/696-S/15510.

4/ A/38/696-S/15556.

5/ General Assembly resolutions 3210 (XXIX) and 3237 (XXIX).

6/ The Commission of Inquiry into the events at the refugee camps in Beirut, 1983. Final report published in The Jerusalem Post of 9 February 1983.

7/ United Nations, Treaty Series, vol. 75, No. 973.

8/ S/13450.

Annex I

A. GENEVA DECLARATION ON PALESTINE

In pursuance of General Assembly resolutions 36/120 C of 10 December 1981, ES-7/7 of 19 August 1982 and 37/86 C of 10 December 1982, an International Conference on the Question of Palestine was convened at the United Nations Office at Geneva from 29 August to 7 September 1983 to seek effective ways and means to enable the Palestinian people to attain and to exercise their inalienable rights. The Conference was opened by the Secretary-General of the United Nations, Javier Pérez de Cuéllar and presided over by the Minister of Foreign Affairs of Senegal, Moustapha Niassé.

1. The Conference, having thoroughly considered the question of Palestine in all its aspects, expresses the grave concern of all nations and peoples regarding the international tension that has persisted for several decades in the Middle East, the principal cause of which is the denial by Israel, and those supporting its expansionist policies, of the inalienable legitimate rights of the Palestinian people. The Conference reaffirms and stresses that a just solution of the question of Palestine, the core of the problem, is the crucial element in a comprehensive, just and lasting political settlement in the Middle East.

2. The Conference recognizes that, as one of the most acute and complex problems of our time, the question of Palestine - inherited by the United Nations at the time of its establishment - requires a comprehensive, just and lasting political settlement. This settlement must be based on the implementation of the relevant United Nations resolutions concerning the question of Palestine and the attainment of the legitimate, inalienable rights of the Palestinian people, including the right to self-determination and the right to the establishment of its own independent State in Palestine and should also be based on the provision by the Security Council of guarantees for peace and security among all States in the region, including the independent Palestinian State, within secure and internationally recognized boundaries. The Conference is convinced that the attainment by the Palestinian people of their inalienable rights, as defined by General Assembly resolution 3236 (XXIX) of 22 November 1974, will contribute substantially to the achievement of peace and stability in the Middle East.

3. The Conference considers the role of the United Nations in the achievement of a comprehensive, just and lasting peace in the Middle East to be essential and paramount. It emphasizes the need for respect for, and application of the provisions of the Charter of the United Nations, the resolutions of the United Nations relevant to the question of Palestine and the observance of the principles of international law.

4. The Conference considers that the various proposals, consistent with the principles of international law, which have been presented on this question, such as the Arab peace plan adopted unanimously at the twelfth Arab Summit Conference held at Fez, Morocco, in September 1982, should serve as guidelines for concerted international effort to resolve the question of Palestine. These guidelines include the following:

(a) The attainment by the Palestinian people of its legitimate inalienable rights, including the right to return, the right to self-determination and the right to establish its own independent State in Palestine;

(b) The right of the Palestine Liberation Organization, the representative of the Palestinian people, to participate on an equal footing with other parties in all efforts, deliberations and conferences on the Middle East;

(c) The need to put an end to Israel's occupation of the Arab territories, in accordance with the principle of the inadmissibility of the acquisition of territory by force, and, consequently, the need to secure Israeli withdrawal from the territories occupied since 1967, including Jerusalem;

(d) The need to oppose and reject such Israeli policies and practices in the occupied territories, including Jerusalem, and any de facto situation created by Israel as are contrary to international law and relevant United Nations resolutions, particularly the establishment of settlements, as these policies and practices constitute major obstacles to the achievement of peace in the Middle East;

(e) The need to reaffirm as null and void all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purported to alter the character and status of the Holy City of Jerusalem, including the expropriation of land and property situated thereon, and in particular the so-called "Basic Law" on Jerusalem and the proclamation of Jerusalem as the capital of Israel;

(f) The right of all States in the region to existence within secure and internationally recognized boundaries, with justice and security for all the people, the sine qua non of which is the recognition and attainment of the legitimate, inalienable rights of the Palestinian people as stated in paragraph (a) above.

5. In order to give effect to these guidelines, the Conference considers it essential that an international peace conference on the Middle East be convened on the basis of the principles of the Charter of the United Nations and the relevant resolutions of the United Nations, with the aim of achieving a comprehensive, just and lasting solution to the Arab-Israeli conflict, an essential element of which would be the establishment of an independent Palestinian State in Palestine. This peace conference should be convened under the auspices of the United Nations, with the participation of all parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, as well as the United States of America, the Union of Soviet Socialist Republics and other concerned States, on an equal footing. In this context the Security Council has a primary responsibility to create appropriate institutional arrangements on the basis of relevant United Nations resolutions in order to guarantee and to carry out the accords of the International Peace Conference.

6. The International Conference on the Question of Palestine emphasizes the importance of the time factor in achieving a just solution to the problem of Palestine. The Conference is convinced that partial solutions are inadequate and delays in seeking a comprehensive solution do not eliminate tensions in the region.

B. PROGRAMME OF ACTION FOR THE ACHIEVEMENT OF PALESTINIAN RIGHTS

The International Conference on the Question of Palestine agreed that no effort should be spared to seek effective ways and means to enable the Palestinian people to attain and exercise their rights in Palestine in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights a/ and the principles of international law. The Conference, taking into consideration the Geneva Declaration on Palestine (sect. A above), recommended the following Programme of Action.

I

The International Conference on the Question of Palestine recommends that all States, individually or collectively, consistent with their respective constitutions and their obligations under the Charter of the United Nations and in conformity with the principles of international law:

1. Recognize the great importance of the time factor in solving the question of Palestine;

2. Intensify efforts for the establishment of an independent Palestinian State within the framework of a comprehensive, just and lasting settlement to the Arab-Israeli conflict in accordance with the Charter of the United Nations, the relevant United Nations resolutions and the guidelines of the Geneva Declaration on Palestine;

3. Consider the continued presence of Israel in the occupied Palestinian and other Arab territories, including Jerusalem, as exacerbating instability in the region and endangering international peace and security;

4. Oppose and reject, as a serious and continuing obstacle to peace, the expansionist policies pursued by Israel in the Palestinian and other Arab territories occupied since 1967, including Jerusalem, and in particular the alteration of the geographic nature and demographic composition, and the Israeli attempt to alter, through domestic legislation, the legal status of those territories, and all the measures taken in violation of the the Geneva Convention relative to the Treatment of Prisoners of War b/ and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, c/ both of 12 August 1949, and of the Hague Regulations of 1907 d/ such as the establishment and expansion of settlements, the transfer of Israeli civilians into those territories and the individual and mass transfers therefrom of the Arab Palestinian population;

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a/ General Assembly resolution 217 A (III).

b/ United Nations, Treaty Series, vol. 75, No. 972, p. 135.

c/ Ibid., No. 973, p. 287.

d/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

5. Refrain from providing Israel with assistance of such a nature as to encourage it militarily, economically and financially to continue its aggression, occupation and disregard of its obligations under the Charter and the relevant resolutions of the United Nations;

6. Not encourage migration to the occupied Arab territories until Israel has put a definitive end to the implementation of its illegal policy of establishing settlements in the Palestinian and other Arab territories occupied since 1967;

7. Fully comply with the relevant resolutions of the United Nations and its specialized agencies on the Holy City of Jerusalem, including those which reject Israel's annexation of Jerusalem and its declaration of that city as its capital;

8. Undertake universal efforts to protect the Holy Places and urge Israel to take measures to prevent their desecration;

9. Consider ways and means of meeting the threat that Israel poses to the regional security in Africa in view of Israel's disregard of United Nations resolutions, and its close collaboration with the apartheid régime in the economic, military and nuclear fields, thereby contributing to the continued illegal occupation of Namibia and enhancing the régime's repressive and aggressive capacity;

10. Encourage, through bilateral and multilateral contacts, all States, including Western European and North American States which have not done so, to welcome all peace initiatives based on the recognition of the inalienable rights of the Palestinian people, which were also welcomed by Chairman Yasser Arafat in his address to the International Conference on the Question of Palestine;

11. Seek and develop ways and means to enable the Palestinian people to exercise sovereignty over their natural resources;

12. Express concern that Israel debars Palestinians from economic activity and access to national resources on Palestinian territory, in consistent violation of General Assembly resolutions on the right of the Palestinians to permanent sovereignty over their natural resources;

13. Declare null and void, and counter such measures and practices applied by Israel in the occupied Palestinian and other Arab territories, including Jerusalem, as the annexation and the expropriation of land, water resources, and property and the alteration of the demographic, geographic, historical and cultural features thereof;

14. Undertake measures to alleviate the economic and social burdens borne by the Palestinian people as a result of the continued Israeli occupation of their territories since 1967;

15. Consider contributing or increasing special contributions to the proposed budgets, programmes and projects of the relevant organs, funds and agencies of the United Nations system that have been requested to provide humanitarian, economic and social assistance to the Palestinian people, with particular reference to:

(a) General Assembly resolution 33/147 of 20 December 1978, and the appeal of the Governing Council of the United Nations Development Programme at its thirtieth session, for additional special contributions amounting to at least $8 million

during the third programming cycle (1982-1986) aimed at helping to meet the economic and social needs of the Palestinian people; e/

(b) The proposed programme budget of the United Nations Conference on Trade and Development (UNCTAD) for the biennium 1984-1985 regarding the establishment within UNCTAD of a special economic unit, f/ as requested by that Conference at its sixth session at Belgrade; g/

(c) Establishing a special legal aid fund to assist Palestinians in securing their rights under conditions of occupation, h/ in accordance with the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

16. Ensure that the United Nations Relief and Works Agency for Palestine Refugees in the Near East can meet the essential needs of the Palestinians without interruption or any diminution in the effectiveness of its services;

17. Review the situation of Palestinian women in Israeli occupied territories and, in view of their special hardships, urge the Preparatory Committee of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women, to be held at Nairobi in 1985, to include this item on the agenda of the Conference;

18. Review, if they have not yet done so, in conformity with their national legislation, their economic, cultural, technical and other relations with Israel, and the agreements governing them with the aim of ensuring that these regulations and agreements will not be interpreted or construed as implying in any way recognition of any modification of the legal status of Jerusalem and of the Palestinian and other Arab territories occupied by Israel since 1967, or an acceptance of Israel's illegal presence in those territories;

19. Recognize that the process of enabling the Palestinian people to exercise its inalienable rights in Palestine is a significant contribution to the restoration of the rule of law in international relations;

20. Assure the observance of the stipulations provided in General Assembly resolution 181 (II) guaranteeing to all persons equal and non-discriminatory rights in civil, political, economic and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, speech, publication, education, assembly and association;

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e/ See Official Records of the Economic and Social Council, 1983, Supplement No. 9 (E/1983/20).

f/ A/C.5/38/4, para. 8 (c).

g/ Recommendation 146 (VI) of 2 July 1983 of the United Nations Conference on Trade and Development.

h/ Recommendation 19 of the Latin American Regional Preparatory Meeting, Managua, 12-15 April 1983 (A/CONF.114/2).

21. Express concern that the laws applicable in the occupied Arab territories have been totally eclipsed by a plethora of military orders that have been designed to establish a new "legal régime" in violation of the Hague Regulations of 1907, and the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

22. Act in accordance with their obligations under existing international law, in particular with regard to the Geneva Conventions of 1949 which require States Parties to respect and to ensure respect for those conventions in all circumstances, and in particular ensure the respect by Israel for the Geneva Conventions of 1949 in the occupied Palestinian and other Arab territories;

23. Express concern that the Palestinians and other Arabs in the occupied territories are deprived of juridical and other kinds of protection, that they are victims of repressive legislation, involving mass arrests, acts of torture, destruction of houses, and the expulsion of people from their homes, acts which constitute flagrant violations of human rights;

24. Recognize the necessity that Palestinian and Lebanese prisoners detained by Israel be accorded the status of prisoners of war in accordance with the Geneva Convention relative to the Treatment of Prisoners of War of 1949, i/ if combatants, or in accordance with the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, j/ if civilians;

25. Strive for the adoption of international measures so that Israel will implement in the West Bank and Gaza the provisions of the Hague Regulations of 1907 and the Geneva Convention relative to the Protection of Civilian Persons, in the light of Security Council resolution 465 (1980);

26. Recognize, if they have not yet done so, the Palestine Liberation Organization as the representative of the Palestinian people and establish with it appropriate relations;

27. Encourage, in conformity with their national legislations, the formation of national committees in support of the Palestinian people;

28. Encourage the observance of 29 November as the International Day of Solidarity with the Palestinian People, in a most effective and meaningful way;

29. Request the General Assembly at its thirty-eighth session to designate a Year of Palestine, to be observed at the earliest possible time, taking into consideration the factors necessary to ensure its effective preparation for the purpose of galvanizing world-wide public opinion and support for further implementation of the Geneva Declaration on Palestine and the Programme of Action.

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i/ United Nations, Treaty Series, op. cit.

j/ Ibid., No. 973, p. 187.

II

The International Conference on the Question of Palestine stresses the obligation of all Member States, under the Charter of the United Nations to enable the United Nations through an expanded and more effective role to fulfil its responsibility for achieving a solution to the question of Palestine. To this end:

A

States participating in the Conference invite the Security Council, as the organ with primary responsibility for the maintenance of international peace and security:

1. To suppress continuing and growing acts of aggression and other breaches of peace in the Middle East which endanger peace and security in the region and the world as a whole;

2. To take prompt, firm and effective steps and actions to establish an independent sovereign Palestinian State in Palestine through the implementation of the relevant United Nations resolutions, by facilitating the organization of the international peace conference on the Middle East, as called for in paragraph 5 of the Geneva Declaration on Palestine, and by creating in this context the appropriate institutional arrangements on the basis of relevant United Nations resolutions in order to guarantee and carry out the accords of the international peace conference, including the following:

(a) Taking measures consistent with the principle of the inadmissibility of the acquisition of territory by force to ensure Israel's withdrawal from the Palestinian and other Arab territories occupied since 1967, including Jerusalem, within a specific time-table;

(b) Undertaking effective measures to guarantee the safety and security and legal and human rights of the Palestinians in the occupied territories pending the withdrawal of the Israeli forces from the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;

(c) Subjecting those territories, following the withdrawal of Israel, to a short transitional period, under the supervision of the United Nations, during which period the Palestinian people would exercise its right to self-determination;

(d) Facilitating the implementation of the right to return of the Palestinians to their homes and property;

(e) Supervising elections to the constituent assembly of the independent Palestinian State in which all Palestinians shall participate, in the exercise of their right to self-determination;

(f) Providing, if necessary, temporary peace-keeping forces in order to facilitate the implementation of subparagraphs (a)-(e) above.

B

Meanwhile the Security Council is also invited:

1. To take urgent action to bring about an immediate and complete cessation of such Israeli policies in the occupied territories, and in particular, the establishment of settlements as have been determined by the Security Council to have no legal validity and as a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;

2. To consider urgently the reports of the Commission established under its resolution 446 (1979) of 22 March 1979, which examined the situation concerning settlements in the Arab territories occupied since 1967, including Jerusalem, and to reactivate the above-mentioned Commission;

3. To initiate action to terminate Israel's exploitative policies which go against the indigenous economic development of the occupied territories, and to compel Israel to lift its restrictions on water use and well-drilling by Palestinian farmers as well as its diversion of West Bank water resources into the Israeli water grid systems;

4. To keep under its constant attention the actions committed by Israel against the Palestinian people in violation of the stipulations provided for in relevant General Assembly resolutions, in particular the stipulations of resolution 181 (II) of 29 November 1947 guaranteeing to all persons equal and non-discriminatory rights and freedoms;

5. To consider, in the event of Israel's persistent non-compliance with the relevant United Nations resolutions which embody the will of the international community, appropriate measures in accordance with the Charter of the United Nations, to ensure Israel's compliance with these resolutions.

C

1. Taking into account the recommendations of the five regional preparatory meetings of the International Conference on the Question of Palestine k/ and United Nations resolutions concerning economic and social assistance to the Palestinian people, the Secretary-General of the United Nations is requested to convene a meeting of the specialized agencies and other organizations associated with the United Nations, as well as representatives of the Palestine Liberation Organization and of those countries which are hosts to Palestinian refugees, and other potential sources of assistance, to develop a co-ordinated programme of economic and social assistance to the Palestinian people and to ensure its implementation.

2. The meeting should also look into the most effective inter-agency machinery to co-ordinate and sustain and intensify United Nations assistance to the Palestinian people.

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k/ African region, A/CONF.114/1; Latin American region, A/CONF.114/2; Western Asian region, A/CONF.114/3; Asian region, A/CONF.114/4; European region, A/CONF.114/5.

D

The dissemination of accurate and comprehensive information world wide, and the role of non-governmental organizations and institutions, remains of vital importance in heightening awareness of and support for the inalienable rights of the Palestinian people to self-determination and to the establishment of an independent sovereign Palestinian State. To these ends:

1. The Department for Public Information of the United Nations, in full co-operation and constant consultations with the Committee on the Exercise of the Inalienable Rights of the Palestinian People should:

(a) Co-ordinate all information activities of the United Nations system on Palestine through the Joint United Nations Information Committee (JUNIC);

(b) Expand publications and audio and visual coverage of the facts and of developments pertaining to the question of Palestine;

(c) Publish newsletters and articles in its respective publications on Israeli violations of human rights of the Arab inhabitants in the occupied territories and organize fact-finding missions for journalists to the area;

(d) Organize regional encounters for journalists;

(e) Disseminate appropriate information on the results of the International Conference on the Question of Palestine;

2. Relevant organizations of the United Nations systems should organize meetings, symposia and seminars on topics within their terms of reference and relating to specific problems of the Palestinian people by establishing closer liaison with non-governmental organizations, the media and other groups interested in the question of Palestine.

III

The International Conference on the Question of Palestine, convinced of the important role of world-wide public opinion in resolving the question of Palestine, and in the implementation of the Declaration and Programme of Action, urges and encourages:

1. Intergovernmental and non-governmental organizations to increase awareness by the international community of the economic and social burdens borne by the Palestinian people as a result of the continued Israeli occupation and its negative effects on the economic development of the West Asian region as a whole;

2. Non-governmental organizations and professional and popular associations to intensify their efforts to support the rights of the Palestinian people in every possible way;

3. Organizations such as those of women, teachers, workers, youths and students to undertake exchanges and other programmes of joint action with their Palestinian counterparts;

4. Women's associations, in particular, to investigate the conditions of Palestinian women and children in all occupied territories;

5. The media and other institutions to disseminate relevant information to increase public awareness and understanding of the question of Palestine;

6. Institutions of higher education to promote the study of the question of Palestine in all its aspects;

7. Various jurists' associations to establish special investigative commissions to determine the violations by Israel of the Palestinians' legal rights and to disseminate their findings accordingly;

8. Jurists to initiate with their Palestinian counterparts consultations, research and investigations on the juridical aspects of problems affecting the southern African and Palestinian struggles, in particular the detention of political prisoners and the denial of prisoner-of-war status to detained members of the national liberation movements of southern Africa and Palestine;

9. Parliamentarians, political parties, trade unions, organizations for solidarity and intellectuals particularly in Western Europe and North America, to join their counterparts in other parts of the world in giving their support, where it has not been done, to an initiative which would express the desire of the international community to see the Palestinian people at last living in their own independent homeland in peace, freedom and dignity.

Annex II

A. RESOLUTION 508 (1982)

Adopted by the Security Council at its 2374th meeting on 5 June 1982

The Security Council,

Recalling its resolutions 425 (1978), 426 (1978) and its ensuing resolutions, and more particularly, resolution 501 (1982),

Taking note of the letters of the Permanent Representative of Lebanon dated 4 June 1982, a/

Deeply concerned at the deterioration of the present situation in Lebanon and in the Lebanese-Israeli border area, and its consequences for peace and security in the region,

Gravely concerned at the violation of the territorial integrity, independence and sovereignty of Lebanon,

Reaffirming and supporting the statement made by the President and the members of the Security Council on 4 June 1982, b/ as well as the urgent appeal issued by the Secretary-General on 4 June 1982,

Taking note of the report of the Secretary-General, c/

1. Calls upon all the parties to the conflict to cease immediately and simultaneously all military activities within Lebanon and across the Lebanese-Israeli border and not later than 0600 hours local time on Sunday, 6 June 1982;

2. Requests all Member States which are in a position to do so to bring their influence to bear upon those concerned so that the cessation of hostilities declared by Security Council resolution 490 (1981) can be respected;

3. Requests the Secretary-General to undertake all possible efforts to ensure the implementation of and compliance with the present resolution and to report to the Security Council as early as possible and not later than 48 hours after the adoption of this resolution.

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a/ S/15161 and S/15162.

b/ S/15163.

c/ Official Records of the Security Council, Thirty-seventh Year, Supplement for April, May and June 1982, 2374th meeting.

B. RESOLUTION 509 (1982)

Adopted by the Security Council at its 2375th meeting on 6 June 1982

The Security Council,

Recalling its resolutions 425 (1978), of 19 March 1978 and 508 (1982) of 5 June 1982,

Gravely concerned at the situation as described by the Secretary-General in his report to the Council, d/

Reaffirming the need for strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries,

1. Demands that Israel withdraw all its military forces forthwith and unconditionally to the internationally recognized boundaries of Lebanon;

2. Demands that all parties observe strictly the terms of paragraph 1 of resolution 508 (1982) which called on them to cease immediately and simultaneously all military activities within Lebanon and across the Lebanese-Israeli border;

3. Calls on all parties to communicate to the Secretary-General their acceptance of the present resolution within 24 hours;

4. Decides to remain seized of the question.

C. RESOLUTION 520 (1982)

Adopted by the Security Council at its 2395th meeting on 17 September 1982

The Security Council,

Having considered the report of the Secretary-General of 15 September 1982, e/

Condemning the murder of Bashir Gemayel, the constitutionally elected President-elect of Lebanon, and every effort to disrupt by violence the restoration of a strong, stable government in Lebanon,

Having listened to the statement by the Permanent Representative of Lebanon, f/

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d/ Ibid., 2375th meeting.

e/ Ibid., document S/15382/Add.1.

f/ Ibid., Thirty-seventh Year, 2394th meeting.

Taking note of the determination of Lebanon to ensure the withdrawal of all non-Lebanese forces from Lebanon,

1. Reaffirms its resolutions 508 (1982), 509 (1982) and 516 (1982) in all their components;

2. Condemns the recent Israeli incursions into Beirut in violation of the cease-fire agreements and of Security Council resolutions;

3. Demands an immediate return to the positions occupied by Israel before 15 September 1982, as a first step towards the full implementation of Security Council resolutions;

4. Calls again for the strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese Army throughout Lebanon;

5. Reaffirms its resolutions 512 (1982) and 513 (1982) which call for respect for the rights of the civilian populations without any discrimination, and repudiates all acts of violence against those populations;

6. Supports the efforts of the Secretary-General to implement Security Council resolution 516 (1982) concerning the deployment of United Nations observers to monitor the situation in and around Beirut and requests all the parties concerned to co-operate fully in the application of that resolution;

7. Decides to remain seized of the question and asks the Secretary-General to keep the Council informed on developments as soon as possible and not later than 24 hours.

D. RESOLUTION 521 (1982)

Adopted by the Security Council at its 2396th meeting on 19 September 1982

The Security Council,

Appalled at the massacre of Palestinian civilians in Beirut,

Having heard the report of the Secretary-General, g/

Noting that the Government of Lebanon has agreed to the dispatch of United Nations Observers to the sites of greatest human suffering and losses in and around that city,

1. Condemns the criminal massacre of Palestinian civilians in Beirut;

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g/ Ibid., Thirty-seventh Year, Supplement for July, August and September 1982, document S/15400.

2. Reaffirms once again its resolutions 512 (1982) and 513 (1982), which call for respect for the rights of the civilian populations without any discrimination, and repudiates all acts of violence against those populations;

3. Authorizes the Secretary-General, as an immediate step, to increase the number of United Nations observers in and around Beirut from ten to fifty, and insists that there shall be no interference with the deployment of the observers and that they shall have full freedom of movement;

4. Requests the Secretary-General, in consultation with the Government of Lebanon, to ensure the rapid deployment of those observers in order that they may contribute in every way possible within their mandate to the effort to ensure full protection for the civilian population;

5. Requests the Secretary-General, as a matter of urgency, to initiate appropriate consultations and, in particular, consultations with the Government of Lebanon on additional steps which the Council might take, including the possible deployment of United Nations forces, to assist that Government in ensuring full protection for the civilian populations in and around Beirut and requests him to report to the Council within 48 hours;

6. Insists that all concerned must permit United Nations observers and forces established by the Security Council in Lebanon to be deployed and to discharge their mandates and, in this connection, solemnly calls attention to the obligation of all Member States, under Article 25 of the Charter of the United Nations, to accept and carry out the decisions of the Council in accordance with the Charter;

7. Requests the Secretary-General to keep the Council informed on an urgent and continuing basis.

E. RESOLUTION 542 (1983)

Adopted by the Security Council at its 2501st meeting on 23 November 1983

The Security Council,

Having considered the situation prevailing in northern Lebanon,

Recalling the statement made on this question by the President of the Council on 11 November 1983, h/

Deeply concerned by the intensification of the fighting, which continues to cause much suffering and great loss of human life,

1. Deplores the loss of human life caused by the events taking place in northern Lebanon;

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h/ S/16142.

2. Reiterates its call for the strict respect for the sovereignty, political independence and territorial integrity of Lebanon within its internationally recognized boundaries;

3. Requests the parties concerned immediately to accept a cease-fire and scrupulously to observe the cessation of hostilities;

4. Invites the parties concerned to settle their differences exclusively by peaceful means and to refrain from the threat or use of force;

5. Pays tribute to the work done by the United Nations Relief and Works Agency for Palestine Refugees in the Near East and by the International Committee of the Red Cross in providing emergency humanitarian assistance to the Palestinian and Lebanese civilians in Tripoli and its surroundings;

6. Calls upon the parties concerned to comply with the provisions of this resolution;

7. Requests the Secretary-General to follow the situation in northern Lebanon, to consult with the Government of Lebanon, and to report to the Council, which remains seized of the question.

F. GENERAL ASSEMBLY RESOLUTION ES-7/9

The question of Palestine

The General Assembly,

Having considered the question of Palestine at its resumed seventh emergency special session,

Having heard the statement of the Palestine Liberation Organization, the representative of the Palestinian people, i/

Recalling and reaffirming, in particular, its resolution 194 (III) of 11 December 1948,

Appalled at the massacre of Palestinian civilians in Beirut,

Recalling Security Council resolutions 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982, 513 (1982) of 4 July 1982, 520 (1982) of 17 September 1982 and 521 (1982) of 19 September 1982,

Taking note of the reports of the Secretary-General relevant to the situation, particularly his report of 18 September 1982, j/

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i/ See A/ES-7/PV.32.

j/ S/15400.

Noting with regret that the Security Council has so far not taken effective and practical measures, in accordance with the Charter of the United Nations, to ensure implementation of its resolutions 508 (1982) and 509 (1982),

Referring to the humanitarian principles of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, k/ and to the obligations arising from the regulations annexed to the Hague Conventions of 1907, l/

Deeply concerned at the sufferings of the Palestinian and Lebanese civilian populations,

Noting the homelessness of the Palestinian people,

Reaffirming the imperative need to permit the Palestinian people to exercise their legitimate rights,

1. Condemns the criminal massacre of Palestinian and other civilians in Beirut on 17 September 1982;

2. Urges the Security Council to investigate, through the means available to it, the circumstances and extent of the massacre of Palestinian and other civilians in Beirut on 17 September 1982, and to make public the report on its findings as soon as possible;

3. Decides to support fully the provisions of Security Council resolutions 508 (1982) and 509 (1982), in which the Council, inter alia, demanded that:

(a) Israel withdraw all its military forces forthwith and unconditionally to the internationally recognized boundaries of Lebanon;

(b) All parties to the conflict cease immediately and simultaneously all military activities within Lebanon and across the Lebanese-Israeli border;

4. Demands that all Member States and other parties observe strict respect for the sovereignty, territorial integrity, unity and political independence of Lebanon within its internationally recognized boundaries;

5. Reaffirms the fundamental principle of the inadmissibility of the acquisition of territory by force;

6. Resolves that, in conformity with its resolution 194 (III) and subsequent relevant resolutions, the Palestinian refugees should be enabled to return to their homes and property from which they have been uprooted and displaced, and demands that Israel comply unconditionally and immediately with the present resolution;

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k/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

l/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915).

7. Urges the Security Council, in the event of continued failure by Israel to comply with the demands contained in resolutions 508 (1982) and 509 (1982) and the present resolution, to meet in order to consider practical ways and means in accordance with the Charter of the United Nations;

8. Calls upon all States and international agencies and organizations to continue to provide the most extensive humanitarian aid possible to the victims of the Israeli invasion of Lebanon;

9. Requests the Secretary-General to prepare a photographic exhibit of the massacre of 17 September 1982 and to display it in the United Nations visitors' hall;

10. Decides to adjourn the seventh emergency special session temporarily and to authorize the President of the latest regular session of the General Assembly to resume its meetings upon request from Member States.

G. GENERAL ASSEMBLY RESOLUTION 38/79

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories

D

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations and by the principles and provisions of the Universal Declaration of Human Rights, m/

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, n/ as well as of other relevant conventions and regulations,

Recalling all its resolutions on the subject, in particular resolutions 32/91 B and C of 13 December 1977, 33/113 C of 18 December 1978, 34/90 A of 12 December 1979, 25/122 C of 11 December 1980, 36/147 C of 16 December 1981 and 37/88 C of 10 December 1982, and also those adopted by the Security Council, the Commission on Human Rights, in particular its resolution 1983/1 of 15 February 1983, o/ and other United Nations organs concerned and by the specialized agencies,

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied

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m/ Resolution 217 A (III).

n/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

o/ See Official Records of the Economic and Social Council, 1983, Supplement No. 3 (E/1983/13 and Corr.1), chap. XXVII.

Territories, p/ which contains, inter alia, public statements made by officials of the Government of Israel,

1. Commends the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories for its efforts in performing the tasks assigned to it by the General Assembly and for its thoroughness and impartiality;

2. Deplores the continued refusal by Israel to allow the Special Committee access to the occupied territories;

3. Demands that Israel allow the Special Committee access to the occupied territories;

4. Reaffirms the fact that occupation itself constitutes a grave violation of the human rights of the civilian population of the occupied Arab territories;

5. Condemns the continued and persistent violation by Israel of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and other applicable international instruments, and condemns in particular those violations which that Convention designates as "grave breaches" thereof;

6. Declares once more that Israel's grave breaches of that Convention are war crimes and an affront to humanity;

7. Strongly condemns the following Israeli policies and practices:

(a) Annexation of parts of the occupied territories, including Jerusalem;

(b) Imposition of Israeli laws, jurisdiction and administration on the Syrian Golan Heights, which has resulted in the effective annexation of the Syrian Golan Heights;

(c) Establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and transfer of an alien population thereto;

(d) Evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories and denial of their right to return;

(e) Confiscation and expropriation of private and public Arab property in the occupied territories and all other transactions for the acquisition of land involving the Israeli authorities, institutions or nationals on the one hand and the inhabitants or institutions of the occupied territories on the other;

(f) Excavations and transformations of the landscape and the historical, cultural and religious sites, especially at Jerusalem;

(g) Pillaging of archaeological and cultural property;

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p/ See A/38/409.

(h) Destruction and demolition of Arab houses;

(i) Collective punishment, mass arrests, administrative detention and ill-treatment of the Arab population;

(j) Ill-treatment and torture of persons under detention;

(k) Interference with religious freedoms and practices as well as family rights and customs;

(l) Interference with the system of education and with the social and economic development of the population in the occupied Palestinian and other Arab territories;

(m) Interference with the freedom of movement of individuals within the occupied Palestinian and other Arab territories;

(n) Illegal exploitation of the natural wealth, resources and population of the occupied territories;

8. Strongly condemns the arming of Israeli settlers in the occupied territories to commit acts of violence against Arab civilians and the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide-scale damage to Arab property;

9. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new immigrants in the occupied territories constitutes a flagrant violation of the Geneva Convention and of the relevant resolutions of the United Nations;

10. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 7, 8 and 9 above;

11. Calls upon Israel, the occupying Power, to take immediate steps for the return of all displaced Arab and Palestinian inhabitants to their homes or former places of residence in the territories occupied by Israel since 1967;

12. Urges the international organizations and the specialized agencies, in particular the International Labour Organisation, to examine the conditions of Arab workers in the occupied Palestinian and other Arab territories, including Jerusalem;

13. Reiterates its call upon all States, in particular those States parties to the Geneva Convention, in accordance with article 1 of that Convention, and upon international organizations and the specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid actions, including those in the field of aid, which might be used by Israel in its pursuit of the policies of annexation and colonization or any of the other policies and practices referred to in the present resolution;

14. Requests the Special Committee, pending the early termination of Israeli occupation, to continue to investigate Israeli policies and practices in the Arab territories occupied by Israel since 1967, to consult, as appropriate, with the

International Committee of the Red Cross in order to ensure the safeguarding of the welfare and human rights of the population of the occupied territories and to report to the Secretary-General as soon as possible and whenever the need arises thereafter;

15. Requests the Special Committee to continue to investigate the treatment of civilians in detention in the Arab territories occupied by Israel since 1967;

16. Condemns Israel's refusal to permit persons from the occupied territories to appear as witnesses before the Special Committee and to participate in conferences and meetings held outside the occupied territories;

17. Requests the Secretary-General:

(a) To provide all necessary facilities to the Special Committee, including those required for its visits to the occupied territories, with a view to investigating the Israeli policies and practices referred to in the present resolution;

(b) To continue to make available additional staff as may be necessary to assist the Special Committee in the performance of its tasks;

(c) To ensure the widest circulation of the reports of the Special Committee, and of information regarding its activities and findings, by all means available through the Department of Public Information of the Secretariat and, where necessary, to reprint those reports of the Special Committee which are no longer available;

(d) To report to the General Assembly at its thirty-ninth session on the tasks entrusted to him in the present paragraph;

18. Requests the Security Council to ensure Israel's respect for and compliance with all the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in Palestinian and other Arab territories occupied since 1967, including Jerusalem, and to initiate measures to halt Israeli policies and practices in those territories;

19. Decides to include in the provisional agenda of its thirty-ninth session the item entitled "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories".

PART IV

1984-1988

INTRODUCTION

The International Conference on the Question of Palestine, held between 29 August and 7 September 1983 at Geneva, became a landmark event which focused the attention of the international community on the struggle of the Palestinian people for its inalienable rights. The Conference elaborated and adopted two far-reaching political documents designed to map out principal guidelines and directions of activities relating to the question of Palestine in years to come.

The Geneva Declaration on Palestine, adopted by the International Conference on the Question of Palestine, laid down guidelines for concerted international efforts aimed at a comprehensive, just and lasting political settlement of the question of Palestine through the convening of an international peace conference on the Middle East. The Programme of Action for the Achievement of Palestinian Rights clearly outlined the obligations and responsibilities of United Nations Member States, the United Nations system as a whole and its bodies and agencies in particular. Further, this document highlighted the role of intergovernmental and non-governmental organizations (NGOs) in raising awareness of the core of the Middle East problem, namely, the question of Palestine.

The need for and urgency of convening an international peace conference were recognized in subsequent years in a series of General Assembly resolutions, proposals by major intergovernmental organizations and individual States Members of the United Nations, as well as by hundreds of NGOs. The years 1984 to 1988 were marked by a continuous effort by all these forces to convene an international peace conference on the Middle East and to find a solution to the question of Palestine and the Arab-Israeli conflict as a whole.

Over the years, the United Nations General Assembly, the Security Council, the Committee on the Exercise of the Inalienable Rights of the Palestinian People, other organs and bodies of the United Nations system as well as the International Committee of the Red Cross (ICRC) have been continuously seized of the ever-deteriorating situation in the Palestinian territory occupied by Israel since 1967. The Committee on the Exercise of the Inalienable Rights of the Palestinian People has been prompt in responding to the developments in the region through the consideration of this matter at its meetings. It has also brought such developments to the attention of the Secretary-General and the President of the Security Council and has called for appropriate measures in accordance with relevant United Nations resolutions, including application by Israel of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, 1/ and appropriate action by the Secretary-General to provide protection and assistance to the Palestinians in the occupied Palestinian territory.

I. THIRTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY AND THE QUESTION OF PALESTINE

The year 1983 was marked by the adoption by the thirty-eighth session of the General Assembly of resolution 38/58 C of 13 December 1983. 2/ This resolution welcomed and endorsed the call made by the International Conference on the Question of Palestine to convene the International Peace Conference on the Middle East in conformity with the following guidelines:

"(a) The attainment by the Palestinian people of its legitimate inalienable rights, including the right to return, the right to self-determination and the right to establish its own independent State in Palestine;

"(b) The right of the Palestine Liberation Organization, the representative of the Palestinian people, to participate on an equal footing with other parties in all efforts, deliberations and conferences on the Middle East;

"(c) The need to put an end to Israel's occupation of the Arab territories, in accordance with the principle of the inadmissibility of the acquisition of territory by force, and, consequently, the need to secure Israeli withdrawal from the territories occupied since 1967, including Jerusalem;

"(d) The need to oppose and reject such Israeli policies and practices in the occupied territories, including Jerusalem, and any de facto situation created by Israel as are contrary to international law and relevant United Nations resolutions, particularly the establishment of settlements, as these policies and practices constitute major obstacles to the achievement of peace in the Middle East;

"(e) The need to reaffirm as null and void all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purported to alter the character and status of the Holy City of Jerusalem, including the expropriation of land and property situated thereon, and in particular the so-called "Basic Law" on Jerusalem and the proclamation of Jerusalem as the capital of Israel;

"(f) The right of all States in the region to existence within secure and internationally recognized boundaries, with justice and security for all the people, the sine qua non of which is the recognition and attainment of the legitimate, inalienable right of the Palestinian people as stated in subparagraph (a) above."

The resolution "invited all parties to the Arab-Israeli conflict, including the Palestine Liberation Organization (PLO), as well as the United States of America, the Union of Soviet Socialist Republics and other concerned States, to participate in the International Peace Conference on the Middle East on an equal footing and with equal rights". It also called upon the Security Council to facilitate the organization of such a Conference and requested the Secretary-General, in consultation with the Security Council, urgently to undertake preparatory measures to convene the Conference and to report on his efforts in this direction early in 1984.

II. ISRAELI POLICIES AND PRACTICES IN THE OCCUPIED PALESTINIAN TERRITORY

A. Violation of human rights in the occupied territory*

During the five years under review, the human rights situation in the occupied Palestinian territory has seriously deteriorated. Israel, the occupying Power, has been violating the relevant conventions and rules of international law and the generally accepted norms and principles of international behaviour. In particular, its policies and practices in the occupied territory remain in clear violation of a number of carefully elaborated and universally accepted instruments of international law. 3/ The general policy of the Government of Israel continued to be based on the concept that the territory occupied by Israel since 1967 should be considered as part of the State of Israel. This has allowed Israeli authorities to advance the so-called "homeland doctrine" according to which, international law notwithstanding, the occupied Palestinian territory constitutes part of the "Jewish homeland", ceasing therefore to be "occupied territory".

In its successive reports, the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories brought to the attention of the General Assembly factual data illustrating the worsening of the human rights situation in the occupied territory. The information contained in these reports indicated that the Israeli authorities, in repressing the Palestinians, violating their inalienable rights and denying them their basic freedoms, disregarded the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. The policies of deportation, torture of detainees, mass arrests, demolition of houses, arbitrary beatings and killing of innocent people - among them children, women and the elderly - as well as the humiliation of Palestinians in their daily life have been systematically pursued by the Israeli authorities in the occupied territory. This situation was aggravated by the increasing armed settler violence against the unarmed Palestinian population. According to the West Bank Data Base Project (WBDP), approximately 67,700 Jewish settlers lived in the Israeli settlements in the West Bank and Gaza Strip in April 1987. 4/ Meron Benvenisti, Director of the Project, writes in the organization's 1987 report that:

> "... all settlers belong to the security forces, being an integral part of the Israeli army (Territorial Defense Units). It is estimated that the settler population possesses no less than 10,000 firearms of all types, as well as other military equipment such as wireless sets and vehicles. The extreme ideological outlook shared by the settlers and their relative independence in defining their military role must lead to excesses. Moreover, military and police authorities are reluctant to prosecute vigilantes even when illegal operations, aimed against official government decisions, are perpetrated." 5/

The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories in its 1988 report noted

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* A further description of violations by Israel of the human rights in the occupied Palestinian territory is contained in chapter IV, section B, of the present study.

with concern the noticeable increase of aggressiveness in Jewish settlers' behaviour towards the civilian Palestinian population of the occupied territory. Acts of violence and aggression perpetrated by the settlers against the Palestinians had reached, according to the Special Committee, "an unprecedented level". 6/ Particular reference in the report was made to the killing and kidnapping of Palestinian civilians, including children, by groups of Jewish settlers and members of Jewish underground organizations.

The overall picture drawn from the information made available to the Special Committee reflected a new phase in the evolution of the situation in the West Bank and Gaza Strip, "characterized by a level of violence and repression never reached before in the course of the 21 years of occupation". 7/ The Special Committee stated unequivocally that the Israeli occupation of the West Bank and Gaza Strip in itself constituted a violation of human rights. It was further pointed out in the report that:

> "This fact, however, has been consistently denied by the Government of Israel, whose general policy towards the occupied territories is based on the principle that the territories occupied by Israel in 1967 constitute part of the State of Israel and that therefore measures such as the establishment of colonies in the occupied territories and the transfer of Israeli citizens thereto did not constitute a process of annexation. Such an attitude represents a flagrant violation of the international obligations of Israel as a State party to the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War." 8/

Considering the gravity of the situation in the occupied territory, the Special Committee emphasized that the responsibility of the international community was more manifest than ever before and that urgent measures had to be taken to prevent further deterioration of the situation and ensure effective protection of the basic rights of the Palestinians in the occupied territory. The Special Committee concluded that such protection could be ensured only through the negotiation of a comprehensive, just and lasting settlement of the Arab-Israeli conflict acceptable to all concerned. The Special Committee was of the view that, until such a settlement was achieved, the following measures could contribute to the restoration of the basic human rights of the civilians in the occupied territory:

> "...
>
> "(a) The full application, by Israel, of the relevant provisions of the Fourth Geneva Convention, which remains the main international instrument in humanitarian law that applies to the occupied territories, and whose applicability to those territories has repeatedly been reaffirmed by the Security Council, the General Assembly and other relevant organs of the United Nations;
>
> "(b) The full co-operation of the Israeli authorities with ICRC in order to facilitate efforts to protect detained persons, in particular by ensuring full access of ICRC representatives to such persons;
>
> "(c) The full support, by Member States, of the activities of ICRC in the occupied territories, and positive response by Member States to eventual appeals for additional assistance, including funds to finance the extra activities required by the unprecedented increase in the number of detained persons;

"(d) The full support, by Member States, of UNRWA activities in the occupied territories in order to enable UNRWA to improve the general assistance provided to the refugee population." 9/

ICRC, in the period under review, continued to carry out its protection and assistance activities in the occupied territory principally based on the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. Article 47 of the Convention specifically lays down the inviolability of the rights of protected persons in occupied territory. However, according to ICRC, Israeli authorities continued to violate the provisions of the Convention. These violations by the Israeli authorities included curfews and restriction on the freedom of movement of the Palestinians, destruction and walling up of their houses, expelling Palestinians from the occupied territory, seizing their land and declaring it "State land". Israeli authorities also continued their practice of inciting Palestinians to collaborate. 10/

B. Acquisition of land and Israeli settlements in the West Bank and Gaza Strip

The Israeli policies of expropriation of Palestinian land in the occupied territory, construction of new settlements and improvement and "thickening" of the existing ones went on unabated from 1984 to 1988. To acquire Palestinian land the Israeli authorities and the settlement movement continued to resort to various techniques. These include the long-established practice of confiscating land and declaring it "closed" for military training purposes, declaring Palestinian land as "State land", expropriating land for "public (Jewish) use" or confiscating it for "nature preserves". 11/ The impact this policy had on the Palestinians was illustrated by the findings, contained in a 1988 report of the United States Department of State, which summarized the land situation in the occupied territory as follows:

"The use of land by Israeli authorities for military purposes, roads, settlements, and other Israeli purposes which restrict access by Palestinians, discriminates against Palestinians and adversely affects their lives and economic activities. Approximately 2.5 per cent of the total area of the West Bank and East Jerusalem has been turned over to Israeli nationals for residential, agricultural, and industrial use by settlers. Palestinians do not participate in the Higher Planning Council, which plans land use in the territories and exercises certain powers transferred from local, municipal, and village councils in 1971." 12/

These processes were accompanied by a noticeable growth in the settlements during the years 1984 to 1988. According to WBDP, 11 settlements were populated over this period in the West Bank. 13/ In the Gaza Strip, 6 settlements were added to the 12 already existing settlements. It should also be noted that one third of the Gaza Strip lands was declared "State land" or confiscated for Jewish settlement by the occupation authorities. In the Gaza Strip, with its small territory and very high population density of approximately 3,754 people per square mile with 85 per cent of the population being urban, the establishment of an Israeli settlement network presents a particularly serious problem for the Palestinians. 14/ In some cases, the settlements physically impinge on the Palestinian communities and refugee camps, blocking their expansion and development. The town of Khan Yunis, for example, was virtually enveloped by a

cluster of Israeli settlements. 15/ Reports from the occupied territory clearly indicate that the Israeli authorities are making intensive efforts, within the framework of a new plan designed to increase the number of Jewish settlers in the occupied West Bank, to raise their number to the equivalent of 40 per cent of the total Arab population. This information was revealed by one of the Israeli Prime Minister's advisers on 3 December 1987 and was later confirmed by the Chairman of the World Zionist Organization's Settlement Department, when he said at a press conference on 5 December 1987 at the Gush Emunim settlement of Elon Moreh, near Nablus, that "Israel's objective in the West Bank [was] to raise the proportion of Jews to 40 to 60 per cent of the total population of the occupied West Bank by the end of the present century". During the same press conference, he also stated that preparations were under way in Israel for the settlement of a further million and a half Jewish settlers in the occupied West Bank during the next 12 months and that the settlement plans and projects were ready to be implemented in different areas of the occupied West Bank. 16/ Similar pronouncements on the subject of increased settlement were made by Mattityahu Drobles, Chairman of the Jewish Agency's Settlement Department, who had drawn up a new settlement project covering the period up to the year 2000. This plan, called "Climb the mountain and open up the desert", was first introduced at the International Zionist Conference held in December 1987 in Jerusalem. The plan provides for the establishment of dozens of new Jewish settlements on the mountain ranges of various parts of the occupied West Bank at the expense of the indigenous Palestinian lands. 17/

During the period 1984-1988 the existing settlements were also upgraded and consolidated in the West Bank and the Gaza Strip, with both a physical increase in the size of the settlements and an increase in the concentration of Jewish settlers in these settlements. According to official Israeli data, the main settlement construction activity in the post-1983 period took place in the existing settlements. In addition, as part of the official campaign to consolidate the settlement process, Michael Dekel, Israeli Deputy Defence Minister, announced his intention to study another project for converting all the military camps in the occupied West Bank into "civilian residential settlements". 18/ The pro-settlement forces have been dominating the Israeli political scene in 1984-1988. A number of plans, projects and proposals were advanced with a view to expropriating Palestinian lands, establishing new settlements and accommodating Jewish settlers in them. With respect to the Jewish settlement budget, the Israeli Minister of Economics and Planning, Gad Ya'acobi, said in a statement published on 27 January 1988 19/ that the funds spent on the construction of Jewish settlements in the occupied territory during the past 20 years of occupation amounted to a total of $US 20 billion.

With the increase in the number of Jewish settlements and the number of Jewish settlers in the occupied West Bank and the Gaza Strip, it is significant to note that the Israeli defence installations in the territory, the transport network as well as the electricity and water supply systems were integrated into the Israeli infrastructure, as such action was considered necessary for the economic and security requirements of the State of Israel.

C. Israeli policies on the water resources of the occupied territory

Water has always been a vital natural resource for the Palestinians in the occupied territory. Israeli water policies have been implemented in the occupied territory by utilizing available legislation, whether customary, Ottoman, Mandate, Jordanian, Egyptian, Israeli or military. By means of military orders and regulations, the Israeli Government, since June 1967, has been exercising complete legislative, administrative and judicial authority over the occupied territory and its inhabitants. Often, legal enactments applied to the occupied territory and their enforcement have been at variance with the legal framework that existed prior to 1967. The existing institutions have also been modified or replaced in order to facilitate the application of the water policies.

In the early 1980s, the level of annual Palestinian per capita water consumption in the occupied territory was 35 cubic metres in towns and 15 m^3 in villages. At the same time, provisions for Jewish settlement consumption were set at 90 m^3 per capita. The projections for 1990 indicate that 60 million m^3 of water will be made available to some 30 Israeli agricultural settlements in the West Bank, only one third less than the amount available for consumption by 400 Palestinian villages. This imbalance in the present and projected water consumption illustrates the discrimination against the Palestinian population through water distribution. 20/

Since 1967, the West Bank water resources have been under full Israeli control. The direct responsibility for the supply of water for the needs of Israel is exercised exclusively by the Israeli Water Commission either through Mekorot, Israeli Water Co. or Tahal, Water Planning for Israel Co. During the period under review, Israel continued to increase its use of the water resources of the occupied West Bank.

A report on the activities of the West Bank and Gaza Strip Civil Administration, prepared in June 1987 by Israel's State Comptroller, contained a number of findings concerning the potentially dangerous, for the Palestinian population, overexploitation of the area's water resources by Israel. It also stated that other serious problems included Palestinians' exorbitant water bills significantly exceeding those of the Israeli settlers', whose bills are subsidized by the World Zionist Organization; 1986 seizure of Palestinian lands by Mekorot and the laying down of water pipes for a Jewish settlement. Sewage, drinking water, pollution and sanitation problems remained of particular gravity for the Palestinian population. The report pointed out that the sewage problem represented a pollution time-bomb for the West Bank and the Gaza Strip. 21/ Insufficient drinking water supplies, the level of salinity, and related problems in public hygiene all lead, according to the World Health Organization (WHO), to various infectious diseases among the Palestinian population. 22/

As regards the West Bank, most of its area is part of the Israeli hydrological system. The 1986 estimates showed that about a quarter of Israel's annual water potential originated from beyond the Green Line (some 475 million m^3 per year out of 1,900 million m^3). This was the basis for the Israeli claim that control over West Bank water potential must remain in Israeli hands. Otherwise, Israel argued, the entire Israeli system, already overpumping water, would collapse. According to WBDP's 1986 report, the Israeli water authority was working on the integration of

the West Bank system into large regional plants linked up with the Israeli network. 23/

In the Gaza Strip, where agriculture accounts for the largest single economic activity and 90 per cent of all exports, Jewish settlers have been exercising a great degree of control over the very limited water resources. While Jewish settlers in the Gaza Strip established 35 to 40 new wells in the mid-1980s, strict water quotas on Palestinian farmers have been enforced for over a decade and overuse has resulted in severe fines being imposed on them. 24/

During the years reviewed in this study, the increase in demand for water in Israel itself has led to expanding use of the Palestinian water resources. This is how The Wall Street Journal, in an article of 22 January 1985, described the situation in the West Bank:

> "A series of major pipelines - paid for by Israel to serve Israeli settlements and Arab villages - have now connected the West Bank water network to the Israeli water grid. Availability has led to demand. And as a result of the growth in demand, the West Bank Arabs have become net "importers" of water piped from Israel."

D. Israel's exploitation of Palestinian labour resources

Israeli occupation has continued to have an adverse effect on the labour and employment situation in the occupied territory. Besides changes in the sectoral structure of employment, there has been a noticeable shift away from jobs inside the West Bank and Gaza to Israel. In 1984-1988 employment in the occupied territory has been steadily declining, while the percentage of Palestinians employed in Israel increased.* According to the estimates contained in the 1987 WBDP report, in 1985, for example, 30.7 per cent (or 51,300 workers) of the West Bank Palestinian labour force were employed in Israel. The percentage of the Gaza Strip Palestinians forced to seek employment in Israel was even higher, reaching 46.1 per cent (or 43,400 workers). The highest increase in Palestinian labour employment in Israel occurred in the construction sector of the Israeli economy. While in 1985, Palestinian labour in this sector was 62.3 per cent, in 1986 it increased to 65 per cent. Palestinian employment in Israeli agriculture also rose from 29.5 per cent in 1985 to over 30 per cent in 1986. 25/

As far as Palestinian employment in the Israeli economy is concerned, the period under review was characterized by a continuing lack of equal pay for equal work. This situation helped to protect Israeli workers from Palestinian competition. Despite the claim of the 1984 annual report of the Israeli Civil Administration, the "equal pay for equal job" concept was not carried through and the Palestinians in the period under review continued to be generally underprivileged and underpaid compared with the Israeli labour force. Benvenisti illustrates this in the following terms:

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* Israeli and Palestinian estimates of the actual percentage of Palestinians from the West Bank and Gaza Strip employed in the Israeli economy differ. In the WBDP 1986 report, Benvenisti explains this by stating that less than half of the Palestinians seeking employment in Israel in 1985 were legally registered with the Israeli Government Employment Service (op. cit., p. 11).

"... Palestinians employed legally through the Employment Service fare worse than their Israeli counterparts, so that in effect they are not getting equal pay. They have less rights than Israelis with regard to premiums, pensions, sick leave, recuperation, clothing and vacation. A sum equal to 20 per cent of wages is deducted as for Israeli employees, but in the latter case it is transferred to the National Insurance Institute (NII) whereas in the former it is transferred directly to the Treasury, and in effect, constitutes an "occupation tax". 26/

In examining the conditions of employment of West Bank and Gaza Strip Palestinian workers in Israel, Benvenisti observes that:

"... many are forced to spend the night within Israel illegally, mostly in the Tel Aviv area and in subhuman conditions, sleeping on tables in restaurants where they work, crowded into insanitary cellars and attics. Many report feeling dehumanized by the long hours, low pay (approximately half that of Israeli workers), poor attitudes and treatment by employers and others in the work place and in the street. They are reported as being searched, arrested or harassed in other ways on an average of twice a week." 27/

According to the 1988 report of the United States Department of State, approximately 100,000 Palestinian workers from the West Bank and the Gaza Strip, who travel daily to work in Israel, do not enjoy equal treatment with respect to working conditions and social security. To illustrate this situation, the report stated that:

"Non-residents are ineligible for NII old-age, survivors' and disability pensions (smaller, flat-rate pensions) received by most Israeli retirees in addition to their Histadrut pensions (like United States social security pensions), unemployment, compensation or insurance for long-term care or injury in nonoccupational accidents. They are also ineligible for NII children's allowances, funded only by employer contributions, and for NII-administered welfare programs funded by Israeli taxpayers through the budget (income support benefits for widows, orphans, mothers of dependent children, victims of disaster, those incapable of working. etc.)." 28/

A distinctive feature of Palestinian employment in Israel is a high percentage of Palestinians seeking daily employment illegally and having to stay overnight illegally in Israel. Often, as the above-mentioned report says, in "unsatisfactory quarters". Besides, Labour Ministry inspectors have taken action against some workers staying overnight without permission. 29/

E. Economic value of the occupied West Bank and Gaza Strip markets for Israel

Virtually no trade existed between the West Bank and Gaza Strip and Israel prior to 1967. The West Bank has supplied neighbouring Arab countries with certain commodities and products such as olive oil, building stone and soap. Similarly, the Gaza Strip developed markets for its citrus crops.

According to the study prepared by the United Nations Conference on Trade and Development (UNCTAD), in collaboration with the secretariat of the United Nations Economic and Social Commission for Western Asia (ESCWA) in 1987, there are three

ways in which the Israeli occupation of the West Bank and Gaza Strip influences the territories' market and their trade. First, and most significantly, is the effect of the occupation itself in altering the established patterns and practices of trade and over which the Palestinian economy has little or no power. These include physical barriers imposed by the Israeli occupation between the territories and their hinterland, sectoral developments which had occurred as a direct result of the domination of the territories' economy by the much more advanced Israeli economy and the boycott policies adopted by Arab countries to prevent the import of Palestinian exports containing any measure of Israeli-produced or imported raw materials. Secondly, over the years, Israel has developed a policy with regard to trade with the territories which resulted in a number of measures having a negative impact on their trading position. Finally, there exist various trading procedures and practices which also adversely affect the ability of the Palestinians to enter markets competitively. 30/

Israel's major consideration, influencing its policy towards trade with the occupied territory, is that Israeli exports should be able to flow freely into the West Bank and Gaza Strip while exports to Israel should be tightly controlled to safeguard the interests of Israeli producers. This is a deliberate and calculated economic policy, established early in the occupation period and scrupulously applied since. In announcing new policy guidelines for export procedures to Israel, an Israeli Government official affirmed that Palestinian products "threaten Israeli firms with unfair competition". 31/ Meanwhile, Israeli policy allows the free flow of Israeli-manufactured agricultural and industrial goods to the territories, disregarding the damaging effects on Palestinian producers in the West Bank and Gaza Strip.

A number of specific restrictive measures aimed at protecting Israeli markets and exploiting the benefits of the Palestinian economy were being implemented by Israel in 1984-1988. Some of the territories' most lucrative cash crops (e.g. cucumbers, tomatoes, eggplant, melons, etc.), capable of competing with Israeli produce, were generally banned from Israeli markets or, if allowed to enter, were imported only in small and carefully controlled quantities, thus protecting the Israeli producers of these commodities. Additionally, exports of Palestinian agricultural output, notably the Gaza Strip's citrus fruit, to Western Europe and other markets secured exclusively for Israeli produce remained forbidden and strict punishments were imposed for contraventions of this regulation. To prevent "the threat of competition" from Palestinian manufacturers, a new military order enforced complex labelling guidelines for all Palestinian products adding further costs to an already burdened manufacturing process. 31/

On the whole, while the West Bank and Gaza Strip did not supply a significant part of Israel's imports (around 3 per cent of Israeli non-military imports), their own trade relations were increasingly influenced by Israel. An average of 16 per cent of Israeli exports were destined for the territories, making the Palestinian market the second largest Israeli (non-military) export market after the United States. Excluding Israeli exports of diamonds to the United States, the West Bank and Gaza, this highly monopolized market, have remained since the mid-1970s the largest single market for Israeli exports. 32/

III. SEARCH FOR A PEACEFUL SOLUTION OF THE QUESTION OF PALESTINE

1984

The Secretary-General, on 13 March 1984, submitted his report pursuant to General Assembly resolution 38/58 C. 33/ He stated in this document that after his consultations with the Security Council on 9 March of that year, he had addressed letters to 19 Governments 34/ and the PLO to ascertain their views on all issues relevant to the organization and convening of the proposed International Peace Conference on the Middle East, including the question of identification of participants.

The replies of the Governments consulted centred around the provisions of General Assembly resolution 38/58 C as it related to the need for the convening of the International Peace Conference on the Middle East.

The Permanent Representative of the United States reiterated the opposition of her Government to resolution 38/58 C, stating that the United States believed that the only path to peace in the Middle East lay in a process of negotiations among the parties based on Security Council resolutions 242 (1967) and 338 (1973). The United States was of the view that holding an international conference, as recommended by the General Assembly, would only hinder the process. 35/

In his reply, the Permanent Representative of the USSR strongly supported the idea of international, collective efforts to resolve the problem of the Middle East. He pointed out that the Soviet Union was continuing consistently to advocate the convening of an international peace conference on the Middle East, "which would open up a real path towards an all-embracing solution for all the problems generated by the Middle East conflict". He also said that the United Nations and its Secretary-General could contribute effectively to the achievement of general agreement on the need to achieve a comprehensive solution of the Middle East problem through collective efforts. 36/

The Israeli Government's position was that the Conference proposed by resolution 38/58 C would serve "as a forum for the dissemination of anti-Israel propaganda". The Permanent Representative of Israel to the United Nations concluded his letter by completely rejecting the idea of a United Nations-sponsored peace conference on the Middle East as provided for by the resolution. 37/

The Permanent Observer of the PLO to the United Nations, on the instruction of Mr. Yasser Arafat, Chairman of the Executive Committee of the PLO, addressed a letter to the Secretary-General, 38/ in which he criticized the "spirit of the letter" of the United States.

The Permanent Observer of the PLO to the United Nations made reference to the statement of Chairman Yasser Arafat during the International Conference on the Question of Palestine. Addressing the Conference, he had put forward a series of specific ideas aimed at finding a solution to the question of Palestine. Chairman Arafat stated, inter alia, that the Fez Summit resolutions constituted a unique opportunity for the achievement of the minimum degree of justice required. He said that the exercise by the people of Palestine of its right to return, self-determination and national independence constituted the only basis for any peace based on justice in the Middle East. Chairman Arafat also called for an

international conference, under the auspices of the United Nations, in which the super-Powers would participate with the rest of the parties concerned, on the basis of the United Nations resolutions relating to the question of Palestine.

The Permanent Representative of the Syrian Arab Republic to the United Nations stressed his full support for the Conference in accordance with resolution 38/58 C. 39/ The Syrian representative also charged that the policy of force and fait accompli pursued by Israel was the main obstacle to the conclusion of a just and comprehensive peace in the region. The Syrian Arab Republic further reaffirmed its support for General Assembly resolution 38/58 C and paid tribute to the efforts made by the Secretary-General in that area. It also expressed its support for the Soviet proposals of 29 July 1984. 39/

The Permanent Representative of Jordan stated that the convening of an International Peace Conference on the Middle East, as envisaged in resolution 38/58 C, was an idea worth pursuing. He added that terms of reference for the Conference should stem from the principles and rules of international law applicable to the issues before the Conference and should include the principle of the inadmissibility of the acquisition of territory by force, which was a fundamental principle in relations among States, besides being a just and cogent rule of international law. The Jordanian Government believed that Security Council resolutions 242 (1967) and 338 (1973) should provide terms of reference for the Conference. 40/

The Permanent Representative of Lebanon, in his letter to the Secretary-General, 41/ said that his Government was prepared to participate in such a Conference within the limits of certain concepts. First, Lebanon was host to a large number of Palestinian refugees, who awaited a just solution to their problem in accordance with United Nations resolutions. Consequently, it was concerned with any effort made to attain this goal. Secondly, Lebanon's agreement to participate in the Conference stemmed from the fact that it was a country concerned with the resolution of the conflict in the region, because it had many times been exposed to problems, acts of aggression and occupation without having been responsible for any act that might give rise to phenomena such as those to which it had been exposed. Thirdly, Lebanon considered that the General Armistice Agreement concluded in 1949 was the legal text governing Lebanese-Israeli relations, as had been stressed in a series of Security Council resolutions over the years.

The Government of Egypt reiterated its belief in the justice of the Palestinian cause and the legitimacy of the inalienable rights of the Palestinian people, in particular its right to self-determination and to establish its independent State in Palestine. The Government of Egypt called upon the Secretary-General to hold the appropriate consultations and to exert every effort to ensure the participation of the parties to the conflict and to afford suitable arrangements and conditions for the conduct of constructive negotiations within the framework of the United Nations, with the aim of achieving a just and lasting peace in the Middle East. 42/

The Geneva Declaration on Palestine and the Programme of Action for the Achievement of Palestinian Rights laid viable groundwork for the future efforts of the United Nations aimed at the convening of the International Peace Conference on the Middle East. Following the provisions of these documents, pursuant to General Assembly resolution 38/58 C and in line with subsequent developments around the issue, the Chargé d'affaires a.i. of the Permanent Mission of the Union of Soviet

Socialist Republics to the United Nations addressed, on 31 July 1984, to the Secretary-General a letter transmitting the text of a document dated 29 July 1984 entitled "Proposals by the Soviet Union on a Middle East settlement". 43/

The proposals defined ways of and offered recommendations for the convening of the International Peace Conference on the Middle East on the basis of the principle of the inadmissibility of the capture of foreign lands through aggression, the demands for the return to the Arabs of all the territories occupied by Israel since 1967 and the dismantling of the settlements established by Israel in the Arab territories after 1967. They focused on the question of action to be taken to guarantee in practice the inalienable rights of the Palestinian people to self-determination and to establish its own independent State on the Palestinian lands that would be freed from Israeli occupation on the West Bank of the River Jordan and in the Gaza Strip.

The Soviet proposals asserted the need to put an end to the state of war in the region and the need for the establishment of peace between the Arab States and Israel. Special emphasis was laid in the document on the international guarantees for the settlement. According to the proposals, the permanent members of the United Nations Security Council or the Security Council as a whole could assume the role of the guarantor. On its part, the Soviet Union expressed readiness to participate in such guarantees.

The Secretary-General stated, later in September 1984, that from the replies he had received and the discussions he had held with the Governments and authorities concerned, it was evident that the convening of the proposed Conference would require, in the first place, the agreement in principle of the parties directly concerned, as well as the United States and the USSR, to participate in the Conference. He said that it was clear from the replies of the Governments of Israel 37/ and the United States 35/ that they were not prepared to participate in the proposed Conference.

In its annual report to the General Assembly, 44/ the Committee on the Exercise of the Inalienable Rights of the Palestinian People expressed regret over the negative attitude of Israel and the United States to the idea of the Conference and decided to maintain its efforts for the early convening of the Conference, while urging the understanding and co-operation of all concerned for the resolution of a problem fundamental to the maintenance of international peace and security, and involving a clear case of the exercise of the inalienable rights of the Palestinian people to self-determination.

The Secretary-General, in his report of 26 October 1984 on the situation in the Middle East 45/ stressed, inter alia, that the Middle East conflict, involving complex interrelated issues, could be fully resolved only by a comprehensive settlement covering all its aspects. The Secretary-General continued to believe that a comprehensive settlement in the Middle East would have to meet the following conditions: the withdrawal of Israeli forces from the occupied territory; respect and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries, free from threats or acts of force; and, lastly, a just settlement of the Palestinian problem based on the recognition of the legitimate rights of the Palestinian people, including self-determination. In this context, the question of Jerusalem also remained of primary importance.

The Secretary-General added that a comprehensive settlement would have to be reached at least in its final stage, if not earlier, through a process of negotiation in which all the parties concerned would participate. He stated that it was generally recognized that the support of the major Powers, especially the USSR and the United States, would be essential for any lasting settlement in the Middle East. F om a purely rational point of view, all these requirements could best and most readily be met if negotiations were undertaken under some form of United Nations auspices.

Various aspects of the question of Palestine were considered throughout 1984 by prominent intergovernmental organizations such as the European Economic Community (EEC), the Movement of Non-Aligned Countries and its Committee of Nine on Palestine,* the Organization of African Unity (OAU), the Organization of the Islamic Conference (OIC) and its Al-Quds (Jerusalem) Committee.** A number of significant documents were adopted over the year by the above-mentioned organizations.

1985

The Security Council held 20 meetings during the year in which it deliberated on various aspects of the situation in the Middle East and in the occupied territory and on other related issues. On 12 and 13 September 1985, at the request of the Group of Arab States, the Council met to consider Israeli practices against the civilian population in the occupied Palestinian territories. The Security Council had before it a draft resolution which deplored the repressive measures taken by Israel since 4 August 1985 against the civilian Palestinian population in the occupied territory; called upon Israel to immediately stop such measures, release the detainees and refrain from further deportations; and called on Israel to abide scrupulously by the provisions of the Fourth Geneva Convention of 12 August 1949. The draft was not adopted because of the negative vote of a permanent member, the United States.

The United Nations Commission on Human Rights, at its forty-first session held at Geneva from 4 February to 15 March 1985, considered an agenda item entitled "Question of the violation of human rights in the occupied Arab territory, including Palestine" and adopted two resolutions.

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* Established at the Seventh Conference of Heads of State or Government of Non-Aligned Countries, held at New Delhi, India, from 7 to 12 March 1983. It later became the Committee of Nine on Palestine. At the time of writing, the members of the Committee are: Algeria, Bangladesh, Cuba, India, Palestine, Senegal, Yugoslavia, Zambia and Zimbabwe.

** Established upon the recommendation of the Sixth Islamic Conference of Foreign Ministers of States Members of OIC, held at Jeddah, Saudi Arabia, in June 1975. The Tenth Islamic Conference of Foreign Ministers, held at Fez, Morocco, placed the Al-Quds Committee under the chairmanship of King Hassan II of Morocco.

In resolution 1985/1 A, the Commission, inter alia, denounced the continued refusal of Israel to allow the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories access to the occupied territory; reiterated the deep alarm expressed by the Special Committee at Israel's policies towards those territories; confirmed its declaration that Israel's breaches of the Fourth Geneva Convention of 12 August 1949 and Additional Protocols were war crimes and an affront to humanity; called upon Israel to refrain from such policies and to implement all pertinent United Nations resolutions; reiterated its call to all States not to recognize any changes carried out by Israel in the occupied territory, and to avoid taking any action or extending any aid which might be used by Israel in pursuit of such policies; and requested the General Assembly to recommend to the Security Council the adoption against Israel of measures under Chapter VII of the Charter of the United Nations.

In resolution 1985/1 B, the Commission reaffirmed that the Fourth Geneva Convention of 12 August 1949 was applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem; condemned Israel's failure to acknowledge such applicability; and urged once more all States parties to the Convention to make every effort to ensure respect for and compliance with the provisions thereof in the occupied territory.

In the Declaration adopted by the Commemorative Meeting in Observance of the Thirtieth Anniversary of the Asian-African Conference, held at Bandung, Indonesia, from 24 to 25 April 1985, participating States expressed their full solidarity with and support for the struggle of the Palestinian people, under the leadership of the PLO, its sole and legitimate representative. They condemned Israeli practices against the population of the Palestinian and Arab territories and reaffirmed their conviction that there could be no just and lasting solution to the Middle East conflict until Israel totally and unconditionally withdrew from all territories occupied since 1967, including Jerusalem.

The Fifty-Seventh Meeting of the Ministers for Foreign Affairs of the Ten States Members of EEC, held at Luxembourg, on 29 April 1985, adopted a Declaration in which the Ten reaffirmed their conviction that the achievement of a just and lasting peace called for the participation and active support of all the parties concerned, and reconfirmed their willingness to contribute to such a process on the basis of the principles stated by them on previous occasions.

Later that year, from 18 to 21 July 1985, the twenty-first ordinary session of the Assembly of Heads of State and Government of OAU, held at Addis Ababa, Ethiopia, adopted two resolutions regarding the question of Palestine and the Middle East conflict. It reiterated its unwavering support for the people of Palestine led by the PLO, its sole legitimate representative. It strongly condemned any initiatives or measures of agreements which did not take into account the aspirations of the people of Palestine and of the PLO, and considered null and void any agreement on the Palestine question which excluded the PLO.

The Extraordinary Summit Conference of Arab States, convened at Casablanca, Morocco, from 7 to 9 August 1985, stated the need for continued Arab support for the resolutions regarding the Palestinian question and its support for the PLO as the sole and legitimate representative of the Palestinian people. The Conference also considered that the convening of an international conference, under the auspices of the United Nations, with the participation of the USSR, the United

States and the other permanent members of the Security Council, as well as the PLO, along with the other concerned parties, would contribute to the promotion of peace in the region.

The Conference of Foreign Ministers of Non-Aligned Countries, held at Luanda, Angola, from 2 to 7 September 1985, reaffirmed that the question of Palestine was the core of the Arab-Israeli conflict and emphasized that a comprehensive, just and durable solution could not be achieved without the total and unconditional withdrawal of Israel from all Palestinian and other Arab territories occupied since 1967, including Jerusalem, and the exercise by the Palestinian people of its inalienable rights. The Conference stressed the necessity for the early convening of the International Peace Conference on the Middle East, in accordance with General Assembly resolution 38/58 C.

Within the United Nations, the Committee on the Exercise of the Inalienable Rights of the Palestinian People continued its efforts aimed at solving the question of Palestine. In its 1985 report, 46/ it strongly pointed out that the question of Palestine had reached a critical phase and urged renewed, concerted and collective action to find a just solution under United Nations auspices and on the basis of relevant United Nations resolutions to end the plight of the Palestinian people. The Committee also expressed its conviction that the International Peace Conference on the Middle East, as endorsed in General Assembly resolution 38/58 C, and generating quasi-unanimous support, could provide a comprehensive opportunity for all parties concerned to participate in negotiations that would lead to a just and lasting solution of the problem.

In its annual report, 47/ the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories again stressed the hardships of the day-to-day life of the Palestinians under Israeli occupation. It also dealt with further deterioration of the human rights situation of the civilian population, violation by the Israeli occupation authorities of the Fourth Geneva Convention, the Israeli policy of annexation of the Palestinian lands and the unabating Jewish settler violence towards the unarmed Palestinian population. It stated that:

> "The extent and force of the activities undertaken by these settlers in regard to the Palestinians in the occupied territories showed that, in fact, it was the settlers who constituted the real authority in the country ...
>
> "The civilian population remained without any protection whatsoever. Corroborative of this attitude of the Israeli authorities is the leniency with which members of the Jewish underground found guilty of murder and physical abuse of the civilian population were treated by the authorities. ... There remains no doubt that the true political force in the occupied territories, which determines the fate of the civilian population, is made up of the settlers implanted illegally in these territories."

In the report of the Secretary-General on the situation in the Middle East, 48/ of 22 October 1985, it was underlined that the Security Council had a major and universally recognized responsibility for this complex and potentially explosive issue and could play a vital role in the evolution of a just and lasting settlement in the region. The Secretary-General stated that he was aware of the

many difficulties facing this endeavour, the success of which would depend on the agreement and co-operation of the major Powers. It would also require the necessary accommodations and adjustments by the parties directly concerned.

During 1985 the situation in the occupied Palestinian territory continued to worsen, according to reports issued by a variety of sources such as Governments, United Nations system, intergovernmental and non-governmental organizations, individual experts and the media. The continuing deterioration of the living conditions and situation of the Palestinian refugees in south Lebanon, as a result of Israeli expansionist policies and practices, were other distinctive features of this period.

The information reviewed by the Committee on the Exercise of the Inalienable Rights of the Palestinian People left no doubt that Israel had persisted in its policy of confiscating Arab-owned land in the occupied Palestinian territory and of increasing the size and number of its settlements, despite the fact that such policy was in violation of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and contrary to United Nations resolutions. At the same time, Israel had persisted in its policy of Judaization of the occupied Palestinian territory through its economic and administrative subjugation and gradual incorporation into the infrastructure of Israel.

The Palestinians became the victims of the reinstatement, in August 1985, of the emergency regulations of 1945, introduced during the British Mandate, which provide inter alia for deportation of persons, administrative detention without charges or trial for renewable six-month periods, and the closing down of newspapers. This measure was reported to have become the corner-stone of a new repressive policy of the Israeli authorities aimed at curbing activities in opposition to the occupation. 49/

At its fortieth session the General Assembly, reiterating once again, in its resolution 40/96 D, the conviction that the convening of an International Peace Conference would constitute a major contribution by the United Nations towards the achievement of a comprehensive, just and lasting solution to the Arab-Israeli conflict, reaffirmed its endorsement of the call for convening the Conference and called upon the Governments of Israel and the United States to reconsider their position towards the attainment of peace in the Middle East through the convening of the Conference.

1986

By 1986 the idea of the convening of the International Peace Conference on the Middle East, under the aegis of the United Nations, as the only effective and efficient means of resolving the question of Palestine, gained almost universal recognition and proposals to that end were advanced by the United Nations bodies and intergovernmental organizations.

The question of the situation in the occupied Arab territories occupied by Israel was on the agenda of the Security Council throughout 1986. Particular attention was given by the Council to the profanation by Israel of the sanctuary of Haram al-Sharif in the Holy City of Al-Quds (Jerusalem). An urgent meeting of the Security Council was convened at the request of Morocco, in its capacity as the Chairman of OIC.

At its meeting, on 30 January 1986, the Security Council had before it a draft resolution by which the Council would have expressed its deep concern at "the provocative acts by Israelis, including members of the Knesset, which have violated the sanctity of the sanctuary of the Haram al-Sharif in Jerusalem" and would have strongly deplored them, affirming that "such acts constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East, the failure of which could also endanger international peace and security". The draft also criticized Israel's violation of the Fourth Geneva Convention. It would further have requested the Secretary-General to report to the Security Council on the implementation of the resolution. However, the draft was not adopted because of the negative vote of a permanent member, the United States.

At its forty-second session, held from 3 February to 14 March 1986, the United Nations Commission on Human Rights considered an agenda item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine". Two resolutions were adopted on this item.

In resolution 1986/1 A, the Commission reaffirmed the fact that the occupation itself constituted a fundamental violation of the human rights of the civilian population of the occupied Arab territories; it also reiterated its deep concern at Israel's policy in the occupied territories, based on the "homeland doctrine" envisaging a monoreligious (Jewish) State that would include territories occupied by Israel since June 1967; the Commission firmly reiterated its condemnation of and rejected Israel's decision to annex Jerusalem and to change the physical character, demographic composition, institutional structure or status of the occupied territory, including Jerusalem, and considered all those measures and their consequences null and void.

In its second resolution 1986/1 B, the Commission condemned Israel's failure to acknowledge the applicability of the Fourth Geneva Convention to the territories it had occupied since 1967, including Jerusalem; it further strongly condemned Israel for its policies of ill-treatment and torture of Palestinian detainees and prisoners in Israeli prisons and the practice of deportation of the liberated Palestinian prisoners; the Commission also urged Israel to co-operate with ICRC.

OIC and its Al-Quds Committee held a number of meetings in 1986 at which issues related to the question of Palestine were considered. At its tenth session, convened at Marrakesh, Morocco, from 21 to 22 January 1986, the Al-Quds Committee recommended the continuation of the effective support to the struggle of the Palestinian people at all levels, political, military, economic, as well as at the level of information, in order to enable it to resist on its land and in its homeland with greater firmness and to oppose more effectively the Zionist occupation. Special attention was also given to the question of the joint efforts of the PLO and the Jordanian Government to safeguard the Holy Places of Islam in occupied Palestine, particularly in Al-Quds al-Sharif.

In its final communiqué, the Co-ordinating Meeting of the Ministers for Foreign Affairs of OIC, held at New York, on 2 October 1986, emphasized the importance of holding the International Peace Conference on the Middle East and reiterated its determination to adhere to the resolution of the General Assembly on this subject.

The seventy-fifth Inter-Parliamentary Conference of the Inter-Parliamentary Union, held at Mexico City, from 7 to 12 April 1986, adopted a resolution on the situation in the Middle East and the question of Palestine. In this document the Conference demanded the full, immediate and unconditional withdrawal of Israel from all occupied Arab territory, affirmed the inalienable rights of the Palestinian Arab people to return to its homeland, to self-determination and to the establishment of its independent State under the leadership of its sole and legitimate representative, the PLO. The Conference called upon parliaments and Governments to support all efforts toward the early convening of the International Peace Conference on the Middle East, in accordance with United Nations General Assembly resolution 38/58 C, with the participation of all concerned parties, including the PLO, the United States, the Soviet Union and the other permanent members of the United Nations Security Council.

The Council of Ministers of OAU, meeting at its forty-fourth ordinary session at Addis Ababa, Ethiopia, from 21 to 26 July 1986, reiterated its position as regards the question of Palestine in two of its resolutions. Reaffirming the legitimacy of and support for the just struggle of the Palestinian people under the leadership of the PLO, OAU called upon the Security Council to take effective measures to guarantee the exercise by the people of Palestine of its national and imprescriptible rights recognized by the United Nations General Assembly. It firmly supported the Arab Peace Plan adopted at the Twelfth Arab Summit, held at Fez, from 6 to 9 September 1982 as an important contribution to the search for a just, comprehensive and lasting settlement of the Middle East conflict. OAU also supported the holding of the International Peace Conference on the Middle East.

The Movement of Non-Aligned Countries considered issues related to the question of Palestine during several meetings at various levels. The eighth Summit Conference of Heads of State or Government of Non-Aligned Countries convened at Harare, Zimbabwe, from 1 to 6 September 1986, adopted its Political Declaration in which the Movement reaffirmed its active solidarity with the Arab countries victims of Israeli aggression and with the just struggle of the Palestinian people, under the leadership of the PLO. The Declaration condemned any accord or treaty that violated or infringed the rights of the Arab nation and the Palestinian people. It also stressed the urgent need to organize the International Peace Conference on the Middle East, in conformity with the 1983 Geneva Declaration and General Assembly resolution 38/58 C in order to achieve a just and comprehensive solution to the Middle East problem, based essentially on the right of the Palestinian people to self-determination and the right to establish an independent and sovereign Palestinian State in its national homeland. The Declaration also called upon the United Nations Security Council to consider setting up a preparatory committee, with the participation of the Security Council's permanent members, to examine effective ways and means of holding the International Peace Conference on the Middle East.

However, despite strong endorsement in the world of the idea of the International Peace Conference on the Middle East under United Nations auspices, the observations of the Secretary-General's report 50/ of 14 March 1986, submitted in pursuance of resolution 40/96 D, reflected a measure of concern about the obstacles to be negotiated in this complex issue. The Secretary-General stated the following in this regard:

"In light of the debate of the General Assembly on the above resolution and other available information, I believe that the obstacles which have so far prevented the convening of the International Peace Conference on the Middle East as called for by the General Assembly still exist. However, I also believe that the observations contained in my report of 22 October 1985, which are recalled above, remain valid."

In its 1986 report, 49/ the Committee on the Exercise of the Inalienable Rights of the Palestinian People observed that Israel had continued to occupy Palestinian and other Arab territories, including Jerusalem, in violation of Security Council and General Assembly resolutions, and to take measures to strengthen its control, including growing repression of the local population and the expansion of settlers' activities. The Committee also stated that, as a consequence of the policies and practices of Israel and of the resulting lack of progress towards a peaceful, just, durable and comprehensive solution, tension and violence had continued to grow in the area, further endangering international peace and security. The priority of the Committee on the Exercise of the Inalienable Rights of the Palestinian People throughout 1986 was the early convening of the International Peace Conference on the Middle East in accordance with resolution 38/58 C.

New factors aggravating the plight of the civilian Palestinian population of the occupied territory were presented in the 1986 report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. 51/ The report stated that the Committee had observed the escalation of violence caused by the implementation by the Government of Israel of a revived "iron-fist" policy, as announced by the Israeli authorities themselves. The policy had been illustrated by a number of harsh measures affecting the human rights of the Palestinian population of the occupied territory, such as an increasing number of arrests and trials leading to the detention of many civilians (including minors) imprisoned for political or security offences, as well as the imposition of measures of administrative detention. Another preoccupying aspect of the "iron-fist" policy had been the resumption, on a large scale, of the expulsion and deportation policy.

The report stated further in paragraph 90 that, on the basis of the evidence and information before it, the Special Committee had reached the conclusion that:

"... the policy pursued by the Government of Israel in the occupied territories continues, as in the past, to be based on the principle that the territories occupied by Israel in 1967 constitute a part of the State of Israel. This is at the source of the policy of annexation and establishment of settlements in occupied territories, which constitutes a flagrant violation of the international obligations of Israel as a State Party to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War."

In his report of 29 October 1986 52/ the Secretary-General laid special emphasis on the alarming absence of a generally accepted and active negotiating process in that area. In that connection he mentioned the difference in the positions of the major Powers regarding the modalities of a negotiating process. The Secretary-General further maintained that, given the complexity of the Arab-Israeli conflict, a just and lasting peace could be best achieved through a comprehensive settlement covering all aspects of the conflict and involving all the

parties concerned, including the PLO. On the prospects for the early convening of the International Peace Conference on the Middle East he said that:

> "... the idea of an International Peace Conference appears to be gaining wider support and a number of procedural proposals have been made in bilateral contacts involving the parties in the region and others who are interested in a settlement of this long-standing conflict. Important disagreements nevertheless remain on the scope of the Conference, on its timing and especially on the question of participation. The latter question, more specifically how the interests and rights of the Palestinian people should be represented, has so far proved impossible to resolve in a manner acceptable to all the potential participants in the proposed Conference. Agreement on that issue would do more than anything else to unblock the present deadlock in the negotiating process."

The disagreements on the issue of the convening of the Conference, however, could also be observed during the debate at the forty-first session of the General Assembly which, by a vast majority, adopted resolution 41/43 D, which reaffirmed its endorsement of the call for convening the Conference. Moreover, the resolution called for setting up a preparatory committee, within the framework of the Security Council, with the participation of the permanent members of the Council to take the necessary action to convening the Conference. By the same resolution the Secretary-General, in consultation with the Security Council, was requested to continue his effort with a view of convening the Conference and to report on this matter to the General Assembly not later than 15 May 1987.

1987

The year 1987 was marked by several anniversaries of significant events in the history of the Palestinian people. It was the year marking the seventieth anniversary of the Balfour Declaration of 1917, the fortieth anniversary of the United Nations partition resolution of 1947 (resolution 181 (II)), the twentieth anniversary of the 1967 war and the fifth anniversary of the brutal massacre of hundreds of Palestinian civilians - men, women and children - at the refugee camps of Sabra and Shatila in West Beirut on 17 and 18 September 1982. In commemoration of these anniversaries, the Committee on the Exercise of the Inalienable Rights of the Palestinian People decided that it would keep in mind, in its programme of work for the year, a proposal by the NGO community to designate the year 1987 as "The Year of the Palestinian People".

The idea of holding a United Nations-sponsored international peace conference on the Middle East received vigorous endorsement in the relevant resolution of the Fifth Islamic Summit Conference held at Kuwait, from 26 to 29 January 1987. The Islamic States, in resolution No. 1/5-P(IS), expressed their commitment to the convening of such a conference with the participation of all the parties concerned in the Arab-Israeli conflict, including the PLO, on an equal footing with them, as well as the permanent members of the Security Council. The Islamic Conference endorsed the establishment of a preparatory committee comprised of the five permanent members of the Security Council.

An important position statement came early that year from the States members of EEC which contained their endorsement for the convening of the Conference in a document entitled "Declaration of the Foreign Ministers of the Twelve States Members of the European Community on the Middle East". The Declaration was adopted

during their meeting at Brussels, Belgium, on 23 February 1987. The expression of support of the Twelve for the forum was contained in a letter addressed to the Secretary-General 53/ in which they pointed out that they were in favour of an international peace conference, held under United Nations auspices, with the participation of the parties concerned and of any party able to make a direct and positive contribution to the restoration and maintenance of peace, as well as to the region's economic and social development.

In the United Nations the Commission on Human Rights, at its forty-third session, held from 2 February to 13 March 1987, adopted two resolutions entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine". Resolution 1987/2 A, while reiterating the majority of the provisions contained in the similar resolutions in previous years, strongly condemned the implementation by Israel of the "iron-fist" policy against the population of the occupied territory as well as all terrorist acts undertaken against the Palestinian inhabitants of the occupied territory by Zionist gangs under the supervision of the occupation authorities; the Commission also strongly condemned the Israeli practice of hindering religious freedom and practices. In its resolution 1987/2 B, the Commission focused its attention on the applicability of the 1949 Geneva Convention to all Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem.

The Foreign Ministers of the Scandinavian States meeting at Reykjavik, Iceland, from 25 to 26 March 1987, had the Middle East problem high on their agenda. Upon the termination of the meeting, the Nordic Foreign Ministers issued a statement supporting the idea of the International Peace Conference on the Middle East under the auspices of the United Nations with the participation of the parties concerned.

States members of the Movement of Non-Aligned Countries once again voiced their support for the convening of the Conference during the meeting of their Committee of Nine on Palestine held at Harare, Zimbabwe, from 14 to 15 April 1987. The Committee urged intensified efforts to begin the preparatory process for the early convening of the Conference.

At its eighteenth session, held at Algiers, Algeria from 20 to 26 April 1987, the Palestine National Council (PNC) strongly endorsed the convening of the International Peace Conference on the Middle East, within the framework of the United Nations and under its auspices, with the participation of the permanent members of the Security Council and the concerned parties, including the PLO, on an equal footing with the other parties. The report also rendered support for the proposal regarding the establishment of the preparatory committee for the Conference.

Later in the year the Secretary-General, in accordance with General Assembly resolution 41/43 D of 2 December 1986 (para. 6), submitted his report on the question of Palestine and the situation in the Middle East. 54/ The report was prepared on the basis of the Secretary-General's round of consultations with all the members of the Security Council and representatives of the Member States directly concerned - Egypt, Israel, Jordan, Lebanon, the Syrian Arab Republic - and the PLO. Its focal point was the attitude of the Security Council members towards the Secretary-General's effort to explore ways for a comprehensive settlement of the Middle East conflict in general and for an international peace conference on the issue in particular. Describing new elements in this process, the Secretary-General stated in paragraph 3 that:

"All members of the Security Council were concerned about the Middle East problem, and all expressed support for a continuation of the Secretary-General's efforts to bring about a just and lasting peace in the Middle East. Moreover, in contrast with experience of recent years, none of the Council members opposed in principle the idea of an International Conference under United Nations auspices. It was clear, however, that wide differences still existed regarding the form that a conference should take. It was also generally agreed that the position of the parties themselves remained far apart on a number of issues of procedure and of substance but that in recent months there had been indications of greater flexibility in attitudes towards the negotiating process and that this should be encouraged."

The Secretary-General concluded by pointing out that, while it was apparent that sufficient agreement did not exist to permit the convening of the International Conference, as called for in resolution 41/43 D, he was determined to continue his efforts to establish a process that would lead to a just and lasting peace in the Middle East.

On 28 and 29 May 1987, a session of the Political Consultative Committee of the States parties to the Warsaw Treaty on Friendship, Co-operation and Mutual Assistance was held at Berlin. Addressing the issue of the ways of finding a just political solution to the Middle East problem, the leaders of the States parties to the Treaty stated that a United Nations-sponsored conference attended by all the interested parties, including the PLO, as the sole legitimate representative of the Palestinian people, would be of great importance for a comprehensive settlement in the Middle East and the attainment of lasting peace in the region. They were of the view that a preparatory committee involving the five permanent members of the Security Council, as well as all interested parties, could be a great practical step towards convening such a conference. 55/

On 13 November 1987, the Secretary-General submitted his report on the situation in the Middle East 56/ to the forty-second session of the General Assembly. In his overview of the developments related to negotiating a comprehensive settlement of the Arab-Israeli conflict and on the prospects for the convening of the International Peace Conference on the Middle East, the Secretary-General said that two factors - international backing as well as the support of the parties concerned - had provided an important basis for the several rounds of consultations.

On the issue of the existing differences between the parties, the Secretary-General pointed out that those are "differences about the procedural aspects of a conference". He also expressed his hope that with the principle accepted, the gaps on procedure could be bridged through patient diplomacy. The Secretary-General, however, clearly outlined the still existing obstacle to the convening of such a conference and made the following observation in paragraph 33:

"The major obstacle at present, however, is one of a different kind, namely, the inability of the Government of Israel as a whole to agree on the principle of an international conference under United Nations auspices. Until the Israeli Government accepts that such a conference is the best way to negotiate a peace settlement, the way forward will remain difficult."

The Secretary-General's findings, however, pointed to certain positive developments in this area. The Secretary-General concluded that he was nevertheless encouraged by the fact that:

"... the idea of an international conference under United Nations auspices has been given high priority among the Arab parties to the conflict, and has been the subject of lively debate within Israel. These positive trends, combined with the growing international consensus in favour of the early convening of a conference, demand of us that we consolidate and build on the foundation that has so far been established."

The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, in its 1987 report, 57/ stated that the general climate of confrontation and repression in the occupied territories had a negative impact in various fields. The day-to-day reality faced by civilians in the occupied territory was marked by the persistence and even intensification of the various forms of harassment and humiliation of the Arab population. Another arbitrary practice used against the Palestinians was that of expulsion and deportation. The report also contained information on measures affecting the enjoyment by the Palestinians of certain basic freedoms. The Special Committee concluded that:

"... the situation in the occupied territories denotes a continuing deterioration of human rights and fundamental freedoms by the civilian population. The relevant provisions of the Fourth Geneva Convention continue to be disregarded. The persistent policy of annexation of the occupied territories, which meets with fierce resistance on the part of the civilian population, and the cycle of tension and repression that the implementation of such a policy involves, have led to an explosive situation that seems bound to provoke yet more dramatic events in the future.

The report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People 58/, submitted in 1987, emphasized that international understanding of the question of Palestine and support for the attainment and exercise of the inalienable rights of the Palestinian people had reached new heights in late 1986 and into 1987. At the same time, the grave deterioration of the situation of Palestinians in the area had aroused the most widespread and serious concern that tension and violence could continue to increase, with possible disastrous consequences for the region, unless progress was finally made towards a negotiated settlement of the problem. It was stressed in the report that urgent positive action by the Security Council was required on the recommendations formulated by the Committee in its first report, as well as on those adopted by the 1983 International Conference on the Question of Palestine, which had been repeatedly endorsed by the General Assembly.

The Committee in 1987 intensified its efforts aimed at convening the International Peace Conference on the Middle East, in accordance with the provisions of General Assembly resolutions 38/58 C and 41/43 D. In the view of the Committee, such a Conference was the most comprehensive and widely accepted proposal aimed at resolving the Palestinian problem.

The Arab Summit, held at Amman, Jordan, from 8 to 11 November 1987 affirmed, inter alia, that the Palestinian issue was the core issue of the Middle East conflict. It supported the convening of the United Nations-sponsored International Conference on the Middle East with the participation of all parties concerned, including the PLO, the sole legitimate representative of the Palestinian people, on an equal footing, in addition to the permanent members of the United Nations Security Council.

The issue of the convening of the International Peace Conference on the Middle East was one of the major issues discussed at the forty-second session of the General Assembly. The general debate at the session clearly indicated that there was a growing understanding and awareness among Member States of the urgency and complexity of the question of Palestine, as the core of the Arab-Israeli conflict. The debate also reflected increased interest within the international community in a just, peaceful and comprehensive settlement of the conflict. Almost all the delegations spoke in favour of the convening of the International Peace Conference on the Middle East under the aegis of the United Nations.

By an overwhelming majority of votes, the General Assembly adopted resolution 42/66 D relating to the convening of such a Conference. The resolution endorsed anew the call for the convening of the International Peace Conference on the Middle East stressing "the urgent need for additional concrete and constructive efforts by all Governments in order to convene the Conference without further delay".

IV. INTIFADAH: PALESTINIAN POPULAR UPRISING IN THE OCCUPIED PALESTINIAN TERRITORY

A. Beginning of the intifadah

At the end of 1987, the question of Palestine and that of the Arab-Israeli conflict as a whole remained in the forefront of the international community's attention as one of the most protracted and difficult of all conflicts after the Second World War. Along with the growing international understanding of the question of Palestine and support for the attainment and exercise by the Palestinian Arab people of its inalienable rights, tension and violence mounted in the region with tragic consequences for the Palestinians.

During the period between September and December 1987, various incidents reflecting the climate of growing unrest among the Palestinian population of the West Bank and Gaza Strip took place. This brief period was marked by numerous violent demonstrations, armed clashes and shootings, leading in some instances to serious injuries and killings, the throwing of petrol bombs and grenades and business and school strikes in various towns, localities, refugee camps and universities in the occupied territory.

In early December 1987 the Palestinian problem entered a new phase. The massive uprising (intifadah) of the Palestinian population erupted early that month in the occupied Gaza Strip and then spread to the rest of the occupied territory. On 8 December, four Palestinians died and nine others were injured after an Israeli Defence Forces (IDF) truck struck their vans at an army road block in the Gaza Strip. The Palestinians believed that the deaths were deliberately caused and popular protests followed. The Israeli forces began to use live ammunition against the Palestinian protesters which resulted in high casualties on the Palestinian side.

Following these intense Gaza protests the Palestinian popular uprising flared up in the West Bank and Jerusalem. To subdue and disperse the all-out Palestinian protest demonstrations, IDF, special forces, police and Jewish settlers used live ammunition, indiscriminate beatings of Palestinians, as well as other means of repression.

Immediately following the start of the uprising, the Security Council was convened on 11 December to consider the situation in the occupied Arab territories at the request of Democratic Yemen, Chairman of the Group of Arab States for that month. 59/ The Security Council considered the issue at its nine meetings during the month of December.* On 22 December 1987 the Council adopted resolution 605 (1987) by 14 votes in favour to none against with 1 abstention (United States of America). In that resolution 60/ the Security Council "strongly deplored the policies and practices of Israel, the occupying Power, which violate the human rights of the Palestinian people in the occupied territories, and in particular the opening of fire by the Israeli army, resulting in the killing and wounding of defenceless Palestinian civilians". It also reaffirmed that "the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 [was] applicable to the Palestinian and other Arab territories occupied by Israel

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* Security Council, 2770th, 2772-2777th and 2780-2781st meetings.

since 1967, including Jerusalem". The Security Council requested the Secretary-General to examine the situation in the occupied territory by all means available to him and to submit a report containing his recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation.

Despite direct appeals to the Israeli Government to abide by article 49 of the foresaid Geneva Convention and not to resort to the deportation of Palestinians from the occupied territory, Israel went ahead and obtained an arbitrary court decision for the deportation of nine Palestinians.

On 5 January, the Security Council unanimously adopted resolution 607 (1988) in which, inter alia, it called upon Israel to refrain from deporting any Palestinian civilians from the occupied territory. The Council's appeal to Israel "to rescind the order to deport Palestinian civilians and to ensure the safe and immediate return to the occupied Palestinian territories of those already deported" was contained in its resolution 608 (1988), adopted on 14 January 1988 by 14 votes in favour to none against with 1 abstention.

B. 1988: The year of the uprising

Report of the Secretary-General of 21 January 1988 61/

In response to Security Council resolution 605 (1987), the Secretary-General dispatched his representative, Mr. Marrack Goulding, Under-Secretary-General for Special Political Affairs, to visit Israel and the occupied Palestinian territories with a twofold mission: to examine on the spot the situation in the occupied territory and to explore ways and means to ensure the safety and protection of the Palestinian population of the West Bank and Gaza which could be recommended by the Secretary-General to the Security Council.

The Secretary-General's representative, after meeting with Israeli Government officials and discussing the situation in the occupied territory with about 200 Palestinian men and women, forwarded his findings and observations to the Secretary-General. On 21 January 1988 the Secretary-General submitted his report on the situation in the occupied Palestinian territories to the Security Council.

Part I of the report, entitled "The situation in the occupied Palestinian territories", dealt with the human rights abuses committed by the occupying Power and the living conditions of the Palestinian population of the occupied territory. According to the report, the Palestinians consulted by the Under-Secretary-General rejected the Israeli occupation and bitterly complained about the practices of the Israeli security forces (this term includes IDF, the border police, the civilian police and the General Security Services (GSS), also known as Shin Beth). Equally common was the complaint (which was also made against officials of the Israeli Civil Administration in the territories) that Palestinians were treated with a contempt and arrogance that seemed to be deliberately intended to humiliate them and undermine their dignity as human beings. Complaints were also made regarding routine violence in detention centres, as well as about the whole system of administrative detention. It was said that the purpose of interrogation was normally to extract a confession, for use in subsequent proceedings in the military courts, and that heavy physical and psychological pressure was used for this purpose by GSS, which used techniques (e.g. hooding) that left no permanent physical disfigurement.

Part I also contained other complaints made by the Palestinians regarding the lack of outlets for their political activity, the taking of land in the occupied territory for the establishment of Israeli settlements and the Israeli practice of deportation of the Palestinians.

Part II of the report, entitled "Ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation", considered such problems as the need for a political settlement of the Arab-Israeli conflict, the question of the observance of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, various types of protection of the civilian Palestinian population and ways and means to ensure the civilian population's protection.

In discussing the need for a political settlement of the problem, the Secretary-General, in paragraph 20, stated the following:

> "... It is certainly necessary that more should be done to ensure the safety and protection of the civilian population. But such measures can only be palliatives. They cannot cure the underlying problem, which is the continuing occupation by Israel of the territories captured in the 1967 war.
>
> "... In the long run, the only certain way of ensuring the safety and protection of the Palestinian people in the occupied territories, and of the people of Israel, is the negotiation of a comprehensive, just and lasting settlement of the Arab-Israeli conflict acceptable to all concerned. An urgent effort is required by the international community, led by the Security Council, to promote an effective negotiating process and to help create the conditions necessary for it to succeed."

Regarding the question of the applicability of the Fourth Geneva Convention to the Israeli policies in the occupied territory, the report unequivocally stated in paragraph 26 that:

> "Several Security Council and General Assembly resolutions (including resolution 242 (1967)) have declared the inadmissibility of the acquisition of territory by war and insisted on Israel's withdrawal from territories occupied since the 1967 war. The Security Council and the General Assembly have consistently maintained since 1967 that the territories that came under Israeli control during the 1967 war are 'occupied territories' within the meaning of the Fourth Geneva Convention. Both the Security Council and the General Assembly have also stated in numerous resolutions that the Fourth Geneva Convention applies to these occupied territories. Accordingly, even though Israel does not accept the <u>de jure</u> applicability of the Fourth Geneva Convention, the <u>opinio juris</u> of the world community is that it must be applied."

The Secretary-General suggested certain urgent measures to be taken with a view to alleviating the present situation. He also stated in paragraph 27 that:

> "The most effective way, pending a political settlement, of ensuring the safety and protection of the civilian population of the occupied territories would thus be for Israel to apply in full the provisions of the Fourth Geneva Convention. To this end, I recommend that the Security Council should consider making a solemn appeal to all the High Contracting Parties to the

Fourth Geneva Convention that have diplomatic relations with Israel, drawing their attention to their obligation under article 1 of the Convention, to '... ensure respect for the present Convention in all circumstances' and urging them to use all the means at their disposal to persuade the Government of Israel to change its position as regards the applicability of the Convention."

The Secretary-General also put forward, in paragraph 28, a set of possible protective measures that could be undertaken by the Security Council to help to ensure the civilian population's safety. The proposed forms of "protection" were as follows:

"...

"(a) 'Protection' can mean physical protection, i.e. the provision of armed forces to deter, and if necessary fight, any threats to the safety of the protected persons;

"(b) 'Protection' can mean legal protection, i.e. intervention with the security and judicial authorities, as well as the political instances, of the occupying Power, by an outside agency, in order to ensure just treatment of an individual or group of individuals;

"(c) 'Protection' can also take a less well-defined form, called in this report 'general assistance', in which an outside agency intervenes with the authorities of the occupying Power to help individuals or groups of individuals to resist violations of their rights (e.g. land confiscations) and to cope with the day-to-day difficulties of life under occupation, such as security restrictions, curfews, harassment, bureaucratic difficulties and so on;

"(d) Finally, there is the somewhat intangible 'protection' afforded by outside agencies, including especially the international media, whose mere presence and readiness to publish what they observe may have a beneficial effect for all concerned; in this report this type of protection is called 'protection by publicity'."

In his concluding remarks, the Secretary-General made a series of action-oriented recommendations and described certain steps to be undertaken to bring about a just settlement of the Arab-Israeli conflict. The Secretary-General pointed out that the underlying problems could be resolved only through a political settlement. He outlined his long-standing position on the issue in these terms in paragraph 53:

"... I continue to believe that this should be achieved through a comprehensive, just and lasting settlement based on Security Council resolutions 242 (1967) and 338 (1973) and taking fully into account the legitimate rights of the Palestinian people, including self-determination. Such a settlement should be negotiated by means of an international conference under United Nations auspices, with the participation of all the parties concerned."

In the final sections of the report, the Secretary-General underscored the socio-economic conditions under which the population of the occupied territories

lives. He referred, inter alia, to the situation in the refugee camps, pointing out to the "squalid living conditions in many of the camps, especially in the Gaza Strip, resulting from the lack of such basic amenities as paved roads, sewage, water, lighting and housing of a minimum standard". In these circumstances, the Secretary-General asked the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) urgently to prepare proposals for improving the infrastructure of the camps and to seek the necessary funds. The Secretary-General also stated that many of the Palestinians consulted expressed the hope that a concerted international effort could be undertaken to revive the territories' economy. To this end, the Secretary-General asked the Administrator of the United Nations Development Programme (UNDP) to study this possibility.

Finally, in paragraph 60, the Secretary-General expressed his belief that:

> "... an urgent effort is required by the international community, led by the Security Council, to promote an effective negotiating process. This is what the Charter requires and it is the fundamental recommendation in this report. I remain personally committed to the search for a settlement and will contribute in any way that I can to that objective."

The deliberations on this issue in the Security Council were preceded by a series of communications addressed to the Secretary-General. He received letters from the Permanent Representative of Kuwait to the United Nations, the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Permanent Representative of the USSR to the United Nations.

The representative of Kuwait transmitted to the Secretary-General the text of the communiqué 62/ adopted at the urgent meeting of the members of OIC at the United Nations, held in New York on 19 January 1988, concerning the desecration by the Israeli troops of Masjid (Mosque) al-Aqsa during Friday prayers. The letter stated that on 15 January 1988, while worshippers were performing their Friday prayers at Masjid al-Aqsa and at the Dome of the Rock in Al-Quds al-Sharif (Jerusalem), Israeli troops rushed into the Mosque, opened fire and launched tear gas grenades at the peaceful worshippers, which resulted in multiple serious injuries and their subsequent hospitalization.

The OIC meeting condemned these Israeli policies and practices against the Palestinian Arab people in the occupied Palestinian territory that were in violation of the Fourth Geneva Convention. The members of OIC at the United Nations supported the Palestinian uprising in the occupied Palestinian territory and voiced their solidarity with the uprising.

The Secretary-General received a letter dated 20 January 1988 63/ from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People in which the Chairman of the Committee stated:

> "The Committee on the Exercise of the Inalienable Rights of the Palestinian People wishes to express once again its utmost concern at these policies and practices of Israel, the occupying Power, which are in clear violation of the basic rights of the Palestinian people, of United Nations resolutions and of the Fourth Geneva Convention of 12 August 1949. The Committee is particularly concerned by the imposition of collective punishment on the entire Palestinian population, which can only exacerbate tension and

further hamper international efforts to achieve a peaceful settlement of the question of Palestine."

The Chairman of the Committee went on to stress the necessity of stepping up efforts to find a solution to the Palestinian problem on the basis of General Assembly resolution 38/58 C. He concluded by stating the following:

> "The Committee appeals to you to take all possible measures to alleviate the suffering of the Palestinians under Israeli occupation, particularly to ensure the continuous supply of food and other necessities to the refugee camps. Further, the Committee reiterates its appeal for the intensification of efforts by all concerned to bring about a comprehensive, just and lasting solution to the question of Palestine, in accordance with United Nations resolutions, in particular through the convening of the International Peace Conference on the Middle East, pursuant to General Assembly resolution 38/58 C of 13 December 1983."

On the eve of the Security Council meeting on the situation in the occupied Arab territories, the Secretary-General also received a message from Mr. E. A. Shevardnadze, Minister for Foreign Affairs of the Soviet Union. 64/ In the letter, he pointed to the urgent need of transforming the political will of States reflected in the General Assembly's decisions into concrete practical steps to solve the hard-core problems of the Middle East and suggested that special role in this process be played by the United Nations, and in particular the Security Council. He put forward the following proposal:

> "We suggest that the members of the Security Council proceed to consultations to consider the relevant questions. The initiative in this matter, we believe, could belong to the permanent members of the Security Council. Conclusions and recommendations arrived at during such consultations could be considered at a formal meeting of the Council. In view of the particular importance of this question for the maintenance of international security, we propose that such a meeting should be held at the Foreign Minister level. We hope that you, for your part, will use the means at your disposal and your personal authority to contribute effectively to a general agreement on immediate practical steps for the convening of an International Conference on the Middle East."

The report of the Secretary-General was discussed by the Security Council at five meetings held on 27 and 28 January and 1 February 1988.* Thirty-two delegations addressed the issue. The overwhelming majority of the delegations pointedly criticized Israel for its repressive and harsh measures against the participants in the civilian Palestinian uprising in the occupied territories.

The debate on the report in the Security Council proved that there was a broad understanding among those delegations that addressed the issue on the need for a concerted collective effort to break the existing deadlock in the Arab-Israeli conflict and to find a political solution to the problem. The only constructive and effective mechanism to reach such a solution would be the early convening of the International Peace Conference on the Middle East, under the auspices of the United Nations, with the participation of all the parties concerned, including the PLO.

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* Security Council, 2785-2787th and 2789-2790th meetings.

At the final stage of the Security Council's deliberations, six delegations, representing the non-aligned States, drafted a resolution 65/ which called upon Israel, as the occupying Power and as a High Contracting Party to the Geneva Convention of 12 August 1949, to accept de jure the applicability of the Convention to the Palestinian and other Arab territories occupied since 1967, including Jerusalem, and to comply fully with its obligations under that Convention, to desist forthwith from its policies and practices which violated the human rights of the Palestinian people; requested Israel to facilitate the task of ICRC and UNRWA and requested all members to give them their full support; requested the Secretary-General to continue to monitor the situation in the occupied territories by all means available to him and to make regular and timely reports to the Council; and affirmed the urgent need to achieve, under the auspices of the United Nations, a comprehensive, just and lasting settlement of the Arab-Israeli conflict, an integral part of which was the Palestinian problem, and expressed its determination to work towards that end. On 1 February 1988 the draft was put to the vote but was not adopted owing to the negative vote of a permanent member of the Security Council. All the other 14 Council members voted in favour of the draft resolution.

Despite the failure of the Security Council to adopt the above-mentioned draft resolution, the significance of the document, its findings and conclusions and the Council's near-unanimous agreement on the modalities of the Middle East settlement cannot be overestimated. In this respect the Security Council's action on the report of the Secretary-General was an important event in the recent history of the United Nations efforts to find a solution to the question of Palestine.

Israeli policies in the occupied Palestinian territory

Following the January 1988 deliberations on the Secretary-General's report in the Security Council, a number of events directly affecting the Palestinian people took place in the area of the Middle East and elsewhere. Unquestionably, the most significant of them for the Palestinians was the continuation of and qualitative changes in the intifadah. Israeli occupation authorities, despite the world-wide condemnation of their practices in the occupied territory, persisted in the "iron-fist" policy against the Palestinians. Methods used by the Israeli forces in the occupied West Bank and the Gaza Strip in dealing with the popular uprising resulted in mass injuries and heavy loss of life among the civilian Palestinian population including children, women and the elderly. The reliance of the Israeli military on certain types of tear gas in high concentrations was from the start of the intifadah the cause of numerous deaths and miscarriages among pregnant Palestinian women and deaths among children. Palestinians were constantly subjected to the indiscriminate beatings and other forms of physical abuse by IDF and GSS personnel. They were also exposed to attacks, at times violent, by the Israeli settlers. Curfews, collective punishment, demolition of houses, detentions and deportations of the Palestinians became standard practice of the Israeli authorities. At the time of writing, over 450* Palestinians were reported to have been killed by the Israeli troops, over 20,000 wounded or injured and 51 deported from the occupied territory by the Israeli authorities. During 1988, thousands of

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* This includes deaths from gunfire, tear-gas, beatings and other causes. Palestinian, Israeli, United Nations and other sources differ on the exact number of casualties among the Palestinian population.

Palestinians from the West Bank and Gaza Strip were detained for different periods of time. At various times during the uprising, over 2,000 persons were under administrative detention for the period of three to six months. 66/ Up to 12,000 persons were held under detention at certain periods.*

Israel's violations of the inalienable rights of the Palestinian people in the occupied Palestinian territory have been sharply criticized and condemned by the international community. The United States Department of State, in its 1988 report, indicated that, in the view of the United States Government, certain Israeli policies and practices contravened the provisions of the Fourth Geneva Convention.** These violations include deportations of Palestinian civilians that became more frequent in 1988 than in 1987, transferring prisoners from the occupied territories and house demolitions as a punishment for families. This report cited serious violations of the Palestinians' rights by the Israeli authorities. According to the report, the response of IDF to the intifadah "led to a substantial increase in human rights violations". The Department of State in this report stated that the Israeli soldiers, in trying to control the uprising, "frequently used gunfire in situations that did not present mortal danger to troops, causing many avoidable deaths and injuries". Reported were "five cases in 1988 in which unarmed Palestinians in detention died under questionable circumstances or were clearly killed by the detaining officials". Reference was also made to the reports of beatings of suspects and detainees, and of "harsh and demeaning treatment of prisoners and detainees". Particularly severe abuse of Palestinian prisoners was reported at the new facility of Dahiriya. 67/

On 19 January 1988, Mr. Itzhak Rabin, Israeli Minister of Defence, stated that in an effort to put down the intifadah, Israel's first priority [was] "force, might, beatings". 68/ According to the State Department's same report:

> "... in late January and February Palestinian and foreign physicians, human rights organizations, and the international and Israeli press reported widespread incidents in which IDF troops used clubs to break limbs and beat Palestinians who were not directly involved in disturbances or resisting arrest. Soldiers turned many people out of their homes at night, making them stand for hours, and rounded up men and boys and beat them in reprisal for stone-throwing." 69/

The Attorney-General of Israel criticized this policy and declared it illegal.

The report said that Palestinian children were treated by the Israeli authorities as adults in security offences. To conceal the above-mentioned practices from the international community, and in part to stop the continuing intifadah, Israel resorted to a media and information blackout. It is stated in the report of the State Department that "to halt the uprising, the Israeli authorities imposed increasing restraints on freedom of expression and press in 1988, citing security reasons". 70/

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* Palestinian, Israeli and other sources differ as to the exact number of casualties and detainees among the Palestinian population.

** The United States considers Israel's occupation to be governed by The Hague Regulations of 1907 and the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War.

Other restrictions were imposed up[illegible] Palestinians, according to the Department of State. These include administrative detention and greater resort to often prolonged curfews that cause severe hardship to the Palestinian residents.

Action taken by the Commission on Human Rights

Throughout 1988 the situation in the occupied Palestinian territory and turbulent developments in the Middle East in general were at the centre of attention of the international community which considerably stepped up its political, humanitarian and economic support for the Palestinian people. A number of significant decisions were adopted and actions taken in 1988 on the question of Palestine both within the United Nations and by other intergovernmental organizations and bodies such as EEC, the League of Arab States, OIC, OAU, the Movement of Non-Aligned Countries, the Nordic States, the Inter-Parliamentary Union, the Gulf Co-operation Council, the Caribbean Community and the Association of South-East Asian Nations.

The Commission on Human Rights, the major United Nations body working to promote and protect human rights, continued in 1988 to focus its attention on the violation of human rights in the occupied territory. The report submitted at its forty-fourth session, which was held from 1 February to 11 March, contained two resolutions entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine". In resolution 1988/1 A, the Commission reiterated, inter alia, its strong condemnation of Israel's policy of physical violence in the occupied territory, breaking the bones of children, women and men and causing women to miscarry as a result of severe beating. It condemned other systematic violent practices of the Israeli authorities, such as killing, wounding, arresting and torturing thousands of Palestinians and kidnapping Palestinian children. The Commission firmly rejected Israel's decision to annex Jerusalem. While urging Israel to refrain from policies and practices that violate human rights in the occupied territory, the Commission requested the Economic and Social Council to recommend to the Security Council the adoption against Israel of the measures referred to in Chapter VII of the Charter of the United Nations for its persistent violation of such rights.* Resolution 1988/1 B urged Israel, which had been systematically refusing to apply the Fourth Geneva Convention in all its provisions to the Palestinian or Arab territories, occupied since 1967, to abide by this international legal instrument and respect it.

During the same session, the Commission on Human Rights adopted a third resolution relating to the question of Palestine. In that resolution, 1988/3, entitled "Situation in occupied Palestine", the Commission reaffirmed its support for the call to convene an international peace conference on the Middle East in accordance with General Assembly resolution 38/58 C.

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* Chapter VII of the Charter of the United Nations (Arts. 39-51), entitled "Action with respect to threats to the peace, breaches of the peace and acts of violence", describes possible provisional United Nations measures, diplomatic, economic or military, to be taken to restore international peace and security.

United States action on the PLO representation at the United Nations

Among developments of special concern to the United Nations in 1988 was the adoption by the United States of the legislation contained in the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as it affected the maintenance of the PLO Permanent Observer Mission to the United Nations in New York. The General Assembly reaffirmed that the Mission was covered by the provisions of the Headquarters Agreement,* that the PLO had the right to establish and maintain premises and adequate functional facilities and that the personnel of the Mission should be enabled to enter and remain in the United States to carry out their official functions. The Assembly also pointed out that a dispute existed between the United Nations and the United States concerning the interpretation or application of the Headquarters Agreement, and that the dispute settlement procedure provided for under section 21 of the Agreement should be set into operation. The International Court of Justice on 26 April 1988 unanimously gave its advisory opinion that "the United States of America, as a party to the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations of 26 June 1947, is under an obligation, in accordance with section 21 of that Agreement, to enter into arbitration for the settlement of the dispute between itself and the United Nations". The Assembly, in its resolution 42/232 of 13 May 1988, endorsed the advisory opinion of the Court and urged the host country to abide by its international legal obligations and accordingly to name its arbitrator to the arbitral tribunal provided for under section 21 of the Headquarters Agreement.

On 13 September 1988, the Secretary-General submitted a report pursuant to General Assembly resolution 42/232 of 13 May 1988 in which he reviewed the dispute that had arisen with the host country over its domestic legislation, the Anti-Terrorism Act of 1987, which would have led to the closure of the Permanent Observer Mission of the PLO. 71/ Enclosed with the report was the judgement of the United States District Judge in Manhattan of 29 June 1988 which dismissed the United States Government lawsuit seeking to close the PLO Mission under the said legislation.

According to the relevant rules of court, the United States had 60 days from the date of the decision in question within which to file an appeal. On 29 August 1988, the United States Department of Justice announced that the United States had decided not to appeal the decision. On the same day this statement was issued, attributable to the spokesman for the Secretary-General:

> "The United Nations welcomes the decision by the United States not to appeal the judgement of the Federal District Court for the Southern District of New York. The dispute between the United Nations and its host country on the PLO Observer Mission has thus come to an end." 72/

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* Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations". This document, also known as the "Headquarters Agreement" was signed at Lake Success on 26 June 1947 and came into force on 21 November 1947 by an exchange of notes, in accordance with section 28 thereof.

Developments in the Middle East relative to the question of Palestine

In the course of the year, along with the unabating repression of the Palestinian population of the occupied territory, Israel continued its threats and attacks against the PLO. This culminated in the assassination by a commando force on 16 April 1988 of Khalil al-Wazir (Abu Jihad), Deputy Commander-in-Chief of the Palestinian Armed Forces and a member of the Central Committee of the PLO. An investigation carried out by the Tunisian Government has ascertained the direct responsibility of Israel in the attack.

This matter was brought to the attention of the Security Council which considered it at its four meetings held between 21 and 25 April 1988. On 25 April 1988, the Security Council, by a vote of 14 in favour to none against, with 1 abstention, adopted resolution 611 (1988). By that resolution the Council, inter alia, condemned vigorously the aggression perpetrated on 16 April 1988 against the sovereignty and territorial integrity of Tunisia in flagrant violation of the Charter of the United Nations, international law and norms of conduct.

By mid-1988 the situation in the occupied territory and the repressive policies and practices of Israel towards the civilian Palestinian population, as well as the repeated violations by it of the sovereignty and territorial integrity of countries in the area, had reached a critical point, making it imperative to advance to a comprehensive political solution to the question of Palestine. At the same time, numerous developments related to the Arab-Israeli conflict brought about an increased awareness and understanding of the issue, along with the support for the idea of convening an international United Nations-sponsored forum to resolve the question of Palestine, the heart of the conflict.

In June 1988, an important statement was made by the PLO spokesman, Mr. Bassam Abu Sharif, who said that the key to the Palestinian-Israeli settlement was through negotiations between the two parties to the conflict. He also expressed the PLO's readiness to talk with any party chosen by the Israeli side to represent it at such negotiations. Mr. Abu Sharif said that the PLO accepted Security Council resolutions 242 (1967) and 338 (1973) within the framework of a United Nations resolution that recognized the Palestinian people's rights. He added that the PLO was ready to accept the placing of the occupied territory under international guardianship. The PLO spokesman further emphasized that the PLO would agree to and even insist on international guarantees for the security of all countries in the region, including Palestine and Israel. He said that the Organization's desire to have such guarantees was the motive for the PLO's demand for bilateral peace negotiations with Israel that would be carried out within the framework of an international conference under United Nations supervision. Mr. Abu Sharif was of the view that a plebiscite among the Palestinians of the West Bank and Gaza Strip under United Nations supervision would allow the Palestinian people to decide upon who would represent them in a future peace process. 73/

A fundamentally new element was introduced in the Middle East situation when the Government of Jordan decided to sever its legal and administrative links with the Israeli-occupied West Bank. In a major address to the nation, on 31 July, King Hussein of Jordan made the following statement:

> "Of late, it has become clear that there is a general Palestinian and Arab orientation which believes in the need to highlight the Palestinian identity in full in all efforts and activities that are related to the

Palestine question and its developments. It has also become obvious that there is a general conviction that maintaining the legal and administrative relationship with the West Bank - and the consequential special Jordanian treatment of the brother Palestinians living under occupation through Jordanian institutions in the occupied territories - goes against this orientation. It would be an obstacle to the Palestinian struggle which seeks to win international support for the Palestine question, considering that it is a just national issue of a people struggling against foreign occupation." 74/

King Hussein made it clear, however, that Jordan would continue to support the Palestinian people's steadfastness and its uprising until the Palestinians achieve their national objectives. Later, the King dissolved the lower house of the Jordanian Parliament, which included representatives of West Bank Palestinians. These moves were welcomed by the PLO, which expressed its readiness to assume full responsibility for the administration of the occupied Palestinian territory.

In August-October 1988, the PLO considerably intensified its diplomatic activity with the aim of improving international understanding of the Arab-Israeli conflict and, in particular, the question of Palestine. On 28 August Mr. Yasser Arafat, Chairman of the Executive Committee of the PLO, met at Geneva with the United Nations Secretary-General and discussed with him the situation in the occupied territory and prospects of political and material assistance the United Nations could further extend to the Palestinian people.

Two weeks later, on 13 September, Chairman Arafat addressed a meeting of the Socialist Group of the European Parliament at Strasbourg, France. In his statement he expressed his views of the status quo in the Arab-Israeli conflict, as well as of the conditions and plight of the Palestinian people under Israeli occupation. Chairman Arafat laid special emphasis on the Palestinian popular uprising in the occupied territory. Outlining the position taken by the PLO in the search for a peaceful settlement of the conflict, he stated that the PLO could only agree to the convening of the International Peace Conference on the Middle East under the auspices of the United Nations, with the participation of the permanent members of the Security Council and the parties to the conflict in the region, including the PLO and Israel, on the basis of two options, namely, all the resolutions dealing with the question of Palestine, including Security Council resolutions 242 (1967) and 338 (1973), or Security Council resolutions 242 (1967) and 338 (1973) along with the recognition of the legitimate rights of the Palestinian people, first and foremost of which is its right to self-determination. Addressing the issue of terrorism, Chairman Arafat reiterated the PLO's commitment to the 1985 Cairo declaration and General Assembly resolution 42/159 of 7 December 1987. He stated that the PLO was working to establish an independent Palestinian State in the territory liberated from Israeli occupation, with a democratic, republican, multi-party system respecting human rights, where there would be no distinctions among its citizens because of colour, race or religion. 75/

Special session of the General Assembly

On 30 September, the Secretary-General, in a continuing effort to find an appropriate way to convene the International Peace Conference on the Middle East under the United Nations auspices, submitted another report 76/ containing the positions of the parties to the Arab-Israeli conflict. He made a number of crucial observations as to the situation in the Middle East and the question of Palestine.

The Secretary-General was encouraged by the fact that all the members of the Security Council believed that it was desirable to convene an international conference and it was possible to identify in the positions adopted by the parties that there should be an international framework for the negotiation of a just and lasting settlement of the conflict. While pointing to the remaining differences as regards the nature of that framework, its powers, the basis on which it would be convened and about who should take part in it, the Secretary-General emphasized the urgent need to establish a process acceptable to all for the negotiation of a just, lasting and comprehensive settlement.

In the meantime, the overall situation in the occupied territory was rapidly deteriorating. Cases of collective punishment of the civilian Palestinian population by the occupation authorities became more frequent and included extended curfews and military sieges of towns, villages and refugee camps. Israelis continued to demolish Palestinian houses, close down schools and universities, outlaw labour unions and local committees and practice other sanctions and restrictions against the Palestinians.

In view of these grave circumstances, the Group of Arab States at the United Nations requested on 25 October that a special meeting of the General Assembly be held on the intifadah under the agenda item entitled "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories". On 3 November the General Assembly met in its plenary session to discuss the proposed item, and following a debate, adopted resolution 43/21 on the uprising.* The resolution, inter alia, condemned such acts as "the opening of fire by the Israeli army and settlers that result in the killing and wounding of defenceless Palestinian civilians, the beating and breaking of bones, the deportation of Palestinian civilians, the imposition of restrictive economic measures, the demolition of houses, collective punishment and detentions, as well as denial of access to the media". The General Assembly also called upon all the High Contracting Parties to the Fourth Geneva Convention of 12 August 1949 "to take appropriate measures to ensure respect by Israel, the occupying Power, for the Convention in all circumstances in conformity with their obligation under article 1". The resolution requested the Secretary-General to examine the situation in the occupied territory "by all means available to him" and to submit periodic reports on this matter.

The first report emanating from General Assembly resolution 43/21, 77/ was submitted by the Secretary-General on 21 November. The Secretary-General, who was assisted in preparing this document by the United Nations Centre for Human Rights,** stated that he considered it essential that the occupying Power apply scrupulously the provisions of the Fourth Geneva Convention. He emphasized again that measures to enhance the safety and protection of the Palestinian people in the occupied territory, urgent as they were, would not resolve the underlying problem. The Secretary-General was of the view that a resolution of the problem could be reached only through a comprehensive, just and lasting settlement based on Security

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* The draft was sponsored by 54 Member States. One hundred and thirty votes were cast in favour of the resolution to 2 against, with 16 abstentions.

** The Centre serves as the secretariat for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.

Council resolutions 242 (1967) and 338 (1973), and taking into account the legitimate rights of the Palestinian people, including self-determination.

The Committee on the Exercise of the Inalienable Rights of the Palestinian People, in its 1988 report to the General Assembly, 78/ voiced its grave concern about the situation in the occupied territory as a result of "the increasing resort by Israel to armed force and other draconian measures in an effort to suppress the popular uprising, which began in early December 1987, against the continued occupation and gradual annexation of the occupied Palestinian territory and against the Israeli policies and practices violating the rights of the Palestinian people". The report contained information on the policies and practices, including some new ones, applied by the Israeli authorities in order to halt the intifadah. The Committee once again drew the attention of the General Assembly and the Security Council to those policies which constituted flagrant violation of the Fourth Geneva Convention, prevented the Palestinian people from attaining its inalienable rights and thwarted international efforts to bring about a peaceful settlement of the Palestine question.

Nineteenth session of the Palestine National Council and its decisions

Of historic significance to the Palestinian people are the decisions and final documents adopted by the nineteenth extraordinary session of PNC, the supreme legislative Palestinian body, held at Algiers, from 12 to 15 November 1988. Palestinians called this session the session of the intifadah and national independence, the session dedicated to Abu Jihad, slain earlier in the year. The session culminated in the adoption on 15 November of two landmark documents, namely "The Political Communiqué of the Palestine National Council" and "The Declaration of Independence". A decision was also taken to set up a provisional government.

In its "Political Communiqué", PNC, among other things, affirmed the determination of the PLO to reach a comprehensive political settlement of the Arab-Israeli conflict and of its essence, the question of Palestine, within the framework of the Charter of the United Nations, the principles and provisions of international legitimacy, the rules of international law, the resolutions of the United Nations - the most recent being Security Council resolutions 605 (1987), 607 (1988) and 608 (1988) - and the resolutions of the Arab summit conferences, in a manner that ensured the right of the Palestinian Arab people to return, to exercise self-determination and to establish its independent national State on its national soil, while also making arrangements for the security and peace of every State in the region.

In order to realise this task, PNC insisted on the implementation of the following:

> "(a) The need to convene the effective international conference on the subject of the Middle East problem and its essence, the question of Palestine, under the auspices of the United Nations and with the participation of the permanent members of the Security Council and all parties to the conflict in the region, including the Palestine Liberation Organization, the sole legitimate representative of the Palestinian people, on an equal footing, with the provision that the said international conference shall be convened on the basis of Security Council resolutions 242 (1967) and 338 (1973) and shall guarantee the legitimate national rights of the Palestinian people, first and foremost among which is the right to self-determination, in accordance with

the principles and provisions of the Charter of the United Nations concerning the right to self-determination of peoples, the inadmissibility of seizure of land belonging to others by means of force or military invasion, and in accordance with United Nations resolutions concerning the question of Palestine;

"(b) Israel's withdrawal from all the Palestinian and Arab territories which it has occupied since 1967, including Arab Jerusalem;

"(c) Cancellation of all measures of attachment and annexation and removal of the settlements established by Israel in the Palestinian and Arab territories since the year 1967;

"(d) An endeavour to place the occupied Palestinian territories, including Arab Jerusalem, under United Nations supervision for a limited period, in order to protect our people and to provide an atmosphere conducive to a successful outcome for the international conference, the attainment of a comprehensive political settlement and the establishment of security and peace for all through mutual acceptance and satisfaction, and in order to enable the Palestinian State to exercise its effective authority over those territories;

"(e) Solution of the Palestine refugee problem in accordance with United Nations resolutions on that subject;

"(f) Assurance of freedom of worship and the practice of religious rites at the holy places in Palestine for adherents of all religions;

"(g) The Security Council's establishment and assurance of arrangements for security and peace among all the concerned States in the region, including the Palestinian State." 79/

Another document adopted by the PNC session, "The Declaration of Independence", proclaimed the establishment of a Palestinian State. The document referred to several international legal instruments in which provisions for the establishment of a Palestinian State had been made. It pointed out, inter alia, that,

"Despite the historical injustice done to the Palestinian Arab people in its displacement and in being deprived of the right to self-determination following the adoption of General Assembly resolution 181 (II) of 1947, which partitioned Palestine into an Arab and a Jewish State, that resolution nevertheless continues to attach conditions to international legitimacy that guarantee the Palestinian Arab people the right to sovereignty and national independence." 80/

As regards the establishment of a Palestinian State, the Declaration states:

"By virtue of the natural, historical and legal right of the Palestinian Arab people to its homeland, Palestine, and of the sacrifices of its succeeding generations in defence of the freedom and independence of that homeland,

"Pursuant to the resolutions of the Arab Summit Conference and on the basis of the international legitimacy embodied in the resolutions of the United Nations since 1947, and

"Through the exercise by the Palestinian Arab people of its right to self-determination, political independence and sovereignty over its territory;

"The Palestine National Council hereby declares, in the name of God and on behalf of the Palestinian Arab people, the establishment of the State of Palestine in the land of Palestine with its capital at Jerusalem." 81/

The Declaration outlined the principal characteristics of the newly established Palestinian State as follows:

"The State of Palestine shall be for Palestinians, wherever they may be, therein to develop their national and cultural identity and therein to enjoy full equality of rights. Their religious and political beliefs and human dignity shall therein be safeguarded under a democratic parliamentary system based on freedom of opinion and the freedom to form parties, on the heed of the majority for minority rights and the respect of minorities for majority decisions, on social justice and equality, and on non-discrimination in civil rights on ground of race, religion or colour or as between men and women, under a Constitution ensuring the rule of law and an independent judiciary and on the basis of true fidelity to the age-old spiritual and cultural heritage of Palestine with respect to mutual tolerance, coexistence and magnanimity among religions.

"The State of Palestine shall be an Arab State and shall be an integral part of the Arab nation, of its heritage and civilization and of its present endeavour for the achievement of the goals of liberation, development, democracy and unity.

...

"The State of Palestine declares its commitment to the purposes and principles of the United Nations, to the Universal Declaration of Human Rights and to the policy and principles of non-alignment.

"The State of Palestine, in declaring that it is a peace-loving State committed to the principles of peaceful coexistence, shall strive, together with all other States and peoples, for the achievement of a lasting peace based on justice and respect for rights, under which the human potential for constructive activity may flourish, mutual competition may centre on life-sustaining innovation and there is no fear for the future, since the future bears only assurance for those who have acted justly or made amends to justice." 82/

The State of Palestine declared that it believed in the solution of international and regional problems by peaceful means in accordance with the Charter of the United Nations and the resolutions adopted by it, and that, without prejudice to its natural right to defend itself, it rejected the threat or use of force, violence and intimidation against its territorial integrity and political independence or those of any other State.

In his report on the situation in the Middle East, 83/ issued on 28 November, the Secretary-General referred in particular to the role of the intifadah in the occupied territory. In his view, the intifadah had been a dominating factor in the political agenda in the Middle East and an inspiration behind the PNC session at Algiers. He believed that the Algiers session had generated new momentum in the diplomatic process and offered fresh opportunities for progress towards peace, which should be seized.

The establishment of the State of Palestine was immediately welcomed by the international community. Within a month, independent Palestine was recognized by almost 80 States in Africa, Asia, Europe and Latin America. 84/

Forty-third session of the General Assembly at Geneva

Prior to the PNC session, the PLO decided that Chairman Arafat would head the PLO delegation to the forty-third session of the General Assembly during the consideration of its agenda item entitled "Question of Palestine". It was also expected that Chairman Arafat would participate in the debate and make an opening statement. On 25 November, the documents necessary to obtain a United States entry visa for Chairman Arafat were presented to the United States Consulate in Tunisia. The Permanent Observer of the PLO to the United Nations expressed his hope that the visa request would be processed promptly facilitating Chairman Arafat's access to the United Nations.

However, on the grounds of a threat to its security, the United States refused to issue a visa to Chairman Arafat. The United Nations Legal Counsel, speaking on the decision of the United States, as the host country, to deny entry of Chairman Arafat into the United States for the purpose of addressing the General Assembly session, stated before the meeting of the Committee on Relations with the Host Country on 28 November that,

> "... the statement of the Department of State does not make the point that the presence of Mr. Arafat, Chairman of the Executive Committee of the PLO, at the United Nations would per se in any way threaten the security of the United States. In other words, the host country did not allege that there was apprehension that Mr. Arafat, once in the United States, might engage in activities outside the scope of his official functions directed against the security of the host country. The reasoning given in the statement of the State Department of 27 November 1988 does not meet the standard laid down in the talks between Secretary-General Hammarskjöld and the United States authorities and reported back by Mr. Hammarskjöld in the report cited above."*

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* The United Nations Legal Counsel refers here to a case that took place in 1953 when a problem arose concerning the denial of a visa to an invitee of the Economic and Social Council on the grounds of national security. The then Secretary-General, Dag Hammarskjöld, engaged in negotiations with the host country in an effort to find a way in which such difficulties could be handled and dealt with. On these negotiations, the Secretary-General published a progress report (document E/2492 of 27 July 1953) and a chapter in his annual report for 1953-1954 (document A/2663). He informed Member States that the United States representatives had assured him that, if in the future there should arise any serious problems with respect to the application in special cases of provisions

"To sum up, I am of the opinion that the host country was and is under an obligation to grant the visa request of the Chairman of the Executive Committee of the PLO, an organization which has been granted observer status by the General Assembly." 85/

A week later, this issue was considered by the General Assembly at its plenary meeting. On 2 December, a draft resolution entitled "Report of the Committee on Relations with the Host Country" was subsequently put to the vote. In this resolution, the General Assembly, inter alia, deplored the failure of the host country to respond favourably to the request of the General Assembly, contained in its resolution 43/48, and decided to consider the question of Palestine, item 37 of its agenda, at the United Nations Office at Geneva, from 13 to 15 December. General Assembly resolution 43/49 was adopted by a recorded vote of 154 in favour, 2 against and 1 abstention.

Pursuant to resolution 43/49, agenda item 37 "Question of Palestine" was considered by the forty-third session of the General Assembly at the United Nations Office at Geneva from 13 to 15 December 1988. Ninety-six delegations addressed the General Assembly on this agenda item, including 31 Ministers for Foreign Affairs.

The delegation of the PLO was headed by Chairman Arafat, who on 13 December made a statement before the General Assembly. In his address, Chairman Arafat gave a historical retrospective of the Arab-Israeli conflict and, in particular, the question of Palestine. He spoke about numerous peace plans and initiatives aimed at reaching a peaceful solution to the conflict, which had been proposed over the past decades. He underscored the crucial role the intifadah played in the struggle of the Palestinian people for its rights and independence. Prominent attention was given in the speech to the decisions of the nineteenth extraordinary session of PNC. Chairman Arafat specifically referred to the position taken by PNC on the issue of terrorism, stating that the session had reiterated its rejection of terrorism of all kinds, including State terrorism.

On the question of finding a solution to the Arab-Israeli conflict, he emphasized that the acceleration of the tempo of the peace process in the region required an exceptional effort on the part of all the parties concerned and of the international parties, particularly the United States and the Soviet Union, which bore a special responsibility towards the cause of peace in the Middle East. He was of the opinion that the United Nations, "the permanent members of the Security Council and all international blocs and bodies [had] a vital role to play at this stage".

Mr. Arafat, in his capacity as Chairman of the Executive Committee of the PLO, that at the time carried out the functions of the provisional government of the State of Palestine, presented to the General Assembly the following Palestinian peace initiative:

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concerning access to the Headquarters district or to sojourn in its vicinity, the latter would consult him and keep him as fully informed as possible in order to ensure that the decision made was in accordance with the rights of the parties concerned.

"First, that a serious effort be made to convene, under the supervision of the Secretary-General of the United Nations, the preparatory committee of the International Peace Conference on the Middle East - in accordance with the initiative of President Gorbachev and President Mitterrand, which President Mitterrand presented to the Assembly towards the end of last September and which was supported by many States, in order to pave the way for the convening of the International Conference, which commands universal support, with the exception of the Government of Israel;

"Secondly, on the basis of our belief in international legitimacy and the vital role of the United Nations, that actions be undertaken to place our occupied Palestinian land under temporary United Nations supervision, and that international forces be deployed there to protect our people and at the same time to supervise the withdrawal of the Israeli forces from our country;

"Thirdly, that the PLO will work for the achievement of a comprehensive settlement among the parties in the Arab-Israeli conflict, including the State of Palestine, Israel and the other neighbouring States, within the framework of the International Peace Conference on the Middle East, on the basis of Security Council resolutions 242 (1967) and 338 (1973), so as to guarantee equality and the balance of interests, especially our people's rights to freedom and national independence, and for respect for the right of all the parties to the conflict to exist in peace and security." 86/

The peace plan was warmly welcomed by nearly all delegations, which spoke in support of the struggle of the Palestinian Arab people for its inalienable rights. Virtually every delegation reiterated that the PLO, the sole legitimate representative of the Palestinian people, should participate in any peace process aimed at finding a solution to the question of Palestine, the core issue of the Arab-Israeli conflict, on an equal footing with other concerned parties.

The debate on the question of Palestine clearly indicated the growing concern of the international community about the continuing attempts by the Israeli Government to crush the intifadah. Statements made at Geneva were marked by pointed criticism of Israel's position on the question of Palestine, its policies and practices towards the civilian Palestinians under occupation. Many delegations spoke in support of the newly established State of Palestine.

On the following day, 14 December, at a news conference at Geneva, Mr. Arafat further specified the key points he had made in his statement before the General Assembly. At the opening of the news conference, Mr. Arafat made the following statement:

"In my speech ... yesterday, it was clear that we mean our people's rights to free and national independence, according to resolution 181, and the right of all parties concerned in the Middle East conflict to exist in peace and security and, as I have mentioned, including the State of Palestine, Israel and other neighbours, according to resolutions 242 and 338.

"As for terrorism, I renounced it yesterday in no uncertain terms and yet I repeat for the record that we totally and absolutely renounce all forms of terrorism, including individual, group and state terrorism." 87/

Mr. Arafat's statements at the news conference were an important development welcomed by the majority of delegations attending the General Assembly session in Geneva.

On 15 December, the last day of plenary deliberations on the agenda item, four draft resolutions were submitted for voting. Following established practice, one of the resolutions on the question of Palestine dealt with the work and tasks of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the Division for Palestinian Rights and the Department of Public Information of the United Nations Secretariat. This three-part resolution was adopted by a large majority of votes. Of greater political impact, however, were the voting results on two other resolutions. One of them, resolution 43/176, called for "the convening of the International Peace Conference on the Middle East, under the auspices of the United Nations, with the participation of all parties to the conflict, including the Palestine Liberation Organization, on an equal footing, and the five permanent members of the Security Council, based on Security Council resolution 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973 and the legitimate national rights of the Palestinian people, primarily the right to self-determination". This resolution spelled out five principles for the achievement of comprehensive peace in the area, which included the withdrawal of Israel from the Palestinian territory occupied since 1967, including Jerusalem, and from other occupied Arab territories; guaranteeing arrangements for security of all States in the region, including those named in resolution 181 (II) of 29 November 1947, within secure and internationally recognized boundaries; resolving the problem of the Palestine refugees in conformity with General Assembly resolution 194 (III) of 11 December 1948, and subsequent relevant resolutions; dismantling the Israeli settlements in the territories occupied since 1967; and guaranteeing freedom of access to Holy Places, religious buildings and sites.

The General Assembly, in this resolution, noted the expressed desire and endeavours to place the Palestinian territory occupied since 1967, including Jerusalem, under the supervision of the United Nations for a limited period, as part of the peace process. As regards the role of the Security Council in the peace process, the General Assembly requested the Council to consider measures needed to convene the International Peace Conference on the Middle East, including the establishment of a preparatory committee, and to consider guarantees for security measures agreed upon by the Conference for all States in the region. This resolution was adopted by an overwhelming majority of 138 votes in favour to 2 against, with 2 abstentions.

Another resolution (43/177) dealt with the question of the establishment of the State of Palestine at the PNC session. In this resolution, the General Assembly acknowledged the proclamation of the State of Palestine by PNC and affirmed the need to enable the Palestinian people to exercise sovereignty over its territory occupied since 1967. By the same resolution, the General Assembly decided that, effective as of 15 December 1988, the designation "Palestine" should be used in the United Nations system in place of the previously used designation "Palestine Liberation Organization" without prejudice to the observer status and functions of the PLO within the United Nations system, in conformity with relevant United Nations resolutions and practice. This resolution was adopted by 104 votes in favour to 2 against, with 36 delegations abstaining.

The United States, one of only two delegations that voted against the draft resolutions, stated in explaining the vote that, in its view, the PLO's explicit acceptance of Security Council resolutions 242 (1967) and 338 (1973), recognition of Israel's right to exist and renunciation of terrorism constituted "another step forward towards the direct negotiations between the parties concerned that are essential to achieving a comprehensive settlement". The United States representative said that his country was "encouraged by this positive movement". He maintained that on this basis the United States had announced on 14 December that it was "prepared to engage in a substantive dialogue with the PLO". Yet, the United States delegation remained opposed to the draft resolution on convening an international peace conference because, as the United States ambassador put it, "this draft fail[ed] to address the centrality of direct negotiations between the parties". Regarding his delegation's strong objection to the second draft resolution, the United States representative said that his Government's decision "to engage in a substantive dialogue with the PLO should not be taken to imply acceptance or recognition by the United States of an independent Palestinian State". 88/

Opening of PLO-United States dialogue

The position adopted by the delegation of the PLO during the Geneva session of the General Assembly set off a series of far-reaching political developments. The foremost among them was the resumption, after a long period of time, of an official PLO-United States dialogue. On 14 December following Mr. Arafat's news conference, the President of the United States, Mr. Ronald Reagan, issued a statement on United States relations with the PLO in which, inter alia, he said:

> "The Palestine Liberation Organization today issued a statement in which it accepted United Nations Security Council resolutions 242 and 338, recognized Israel's right to exist, and renounced terrorism. These have long been our conditions for a substantive dialogue. They have been met. Therefore, I have authorized the State Department to enter into a substantive dialogue with PLO representatives.
>
> "...
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> "The initiation of a dialogue between the United States and PLO representatives is an important step in the peace process, the more so because it represents the serious evolution of Palestinian thinking toward realistic and pragmatic positions on the key issues." 89/

The first meeting between the two delegations took place on 16 December in the Tunisian town of Carthage.* These talks, a direct result of the General Assembly session held at Geneva, constituted a significant undertaking for both sides. The very fact that talks took place paved the way for further diplomatic contacts and efforts which would extend into 1989. They also marked the start of a new diplomatic thrust aimed at bringing about a comprehensive political settlement to the Arab-Israeli conflict.

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* The PLO delegation was headed by Mr. Yasser Abed Rabbo and the United States by Mr. Robert H. Pelletreau, Ambassador to Tunisia.

V. CONCLUSION

The political and diplomatic developments affecting the Palestinian people, outlined in the previous chapters took place against the background of a highly volatile status quo in the region as well as serious deterioration during 1984 to 1988 of the living conditions of the Palestinians in the occupied territory. These circumstances required urgent identification of particular needs of the Palestinians as well as prompt planning, developing and implementing of economic and social assistance programmes and projects.

International, national and private relief organizations continued, over the period reviewed, to render economic and social assistance to the Palestinian people. Various organizations of the United Nations system have been providing assistance to the Palestinian people in the occupied territory. 90/ The United Nations economic and social assistance and development activities were designed to present practical and credible ways of alleviating the existing economic and social development problems of the Palestinian people. The worsening economic situation in the occupied territory and, in particular, the large number of Palestinian workers forced to seek employment in Israel were of utmost concern to the organizations providing assistance. The primary objective of development activities for the occupied territory was the restructuring of the productive base of the economy of these areas.

By the end of 1988, and particularly in the wake of the Geneva session of the General Assembly, Israel, as a party to the conflict, found itself increasingly isolated in the United Nations and in the region. This factor, coupled with recent moves and endeavours of Western European countries in their search for a peaceful solution of the Arab-Israeli conflict, as well as the growing understanding in the United States of the plight of the Palestinian people, could bring about a qualitatively new situation in the Middle East. If the peace process is to go forward, all the parties to the conflict would have to adopt realistic and responsible negotiating positions primarily on the question of Palestine, and on a diversity of other elements in the Arab-Israeli conflict.

The years 1984-1988 and into 1989 were years of considerable strengthening of the role of the United Nations in an effort to speed up a just political settlement of the four-decade long conflict. This is particularly true in the case of the Palestine problem, a complex and delicate interlacing of the destinies of two peoples of the Middle East - one Arab, the other Jewish. Over the years, the United Nations, as is recognized by the overwhelming plurality of its Member States, succeeded in working out a balanced, even-handed approach to this sensitive issue. The idea of an international peace conference on the Middle East, under the auspices of the United Nations, gained wide-ranging support in all parts of the world. Because of the multilateral nature of the Arab-Israeli conflict and involvement of several concerned parties, including Egypt, Israel, Jordan, Lebanon, the PLO and the Syrian Arab Republic, the format of such a United Nations forum appears to be the most appropriate and effective. Today, the international community is of the view that such a conference is the only way likely to bear fruit for the long-suffering Palestinian people as well as other peoples of the region, a region torn apart by decades of continuous strife.

Since February 1989, and until the time the present publication went to print, the United Nations Security Council, the General Assembly, the Committee on the Exercise of the Inalienable Rights of the Palestinian People, other organs and agencies of the United Nations system as well as major intergovernmental organizations throughout the world have placed special emphasis in their activities on the plight of the Palestinian people in the occupied Palestinian territory.

During that period, a series of diplomatic efforts directly related to the search for a solution to the question of Palestine were undertaken by Governments in the Middle East and elsewhere. However, despite the ever-growing endeavours by various parties, a just, comprehensive and lasting political solution to the problem has yet to be achieved.

Notes

1/ United Nations Treaty Series, vol. 75, 1973.

2/ The resolutions adopted by the General Assembly at each session are compiled in a Supplement to the Official Records of the General Assembly for that session.

3/ These instruments include: the Charter of the United Nations; the Universal Declaration of Human Rights; the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949; the Geneva Convention Relative to the Treatment of Prisoners of War, of 12 August 1949; the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, of 14 May 1954; the Hague Conventions of 1899 and 1907 reflecting the Laws and Customs of War on Land; the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights.

4/ Meron Benvenisti, 1987 Report. Demographic, economic, legal, social and political developments in the West Bank, West Bank Data Base Project, as quoted in The Jerusalem Post, 1987, p. 52.

5/ Ibid., pp. 41-42.

6/ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/43/694), paras. 499 and 619.

7/ Ibid., para. 610.

8/ Ibid., para. 611.

9/ Ibid., para. 621.

10/ See ICRC Annual Reports: 1984, pp. 66-68; 1985, pp. 72-73; 1986, pp. 71-72; and 1987, pp. 83-85.

11/ Joseph Schechla, "The Past as Prologue to the Intifadah", in Without Prejudice, vol. I, No. 2, 1988, p. 73.

12/ See Country Reports on Human Rights Practices for 1988. Reports submitted to the Committee on Foreign Relations (U.S. Senate) and Committee on Foreign Affairs (U.S. House of Representatives) by the Department of State, February 1989, Washington, pp. 1385-1386.

13/ Benvenisti, op. cit., p. 55.

14/ Sara Roy, "The Gaza Strip: A Case of Economic De-Development", in Journal of Palestine Studies, vol. XVII, No. 1, Autumn 1987, p. 58.

15/ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, (A/41/680), para. 82.

16/ See letter dated 2 February 1988 from the Permanent Representative of Jordan to the United Nations addressed to the Secretary-General (A/43/118-S/19473), p. 3.

17/ Ibid., p. 4.

18/ See letter dated 22 December 1987 from the Permanent Representative of Jordan to the United Nations addressed to the Secretary-General (A/43/63-S/19376), p. 4.

19/ See letter dated 24 February 1988 from the Permanent Representative of Jordan to the United Nations addressed to the Secretary-General (A/43/166-S/19537), p. 6.

20/ Meron Benvenisti and Shlomo Khayat, The West Bank and Gaza Atlas, West Bank Data Base Project, The Jerusalem Post, 1988, p. 26.

21/ The Jerusalem Post, 2 July 1987.

22/ See World Health Organization, Health Conditions of the Arab population in the occupied Arab territories, including Palestine, report of the Special Committee of Experts appointed to study the health conditions of the inhabitants of the occupied territories (A/37/13), paras. 3.3.2 and 3.4.

23/ Benvenisti, 1986 Report, West Bank Data Base Project, The Jerusalem Post, 1986, pp. 20 and 22.

24/ Sara Roy, "The Gaza Strip: A Case of Economic De-Development", in Journal of Palestine Studies, vol. VII, No. 1, Autumn 1987, p. 69.

25/ Benvenisti, 1987 Report, op. cit., pp. 16 and 18.

26/ Benvenisti, 1986 Report, op. cit., pp. 11-12.

27/ Ibid., p. 13.

28/ See Country Reports on Human Rights Practices for 1988, op. cit., pp. 1374 and 1384.

29/ Ibid., p. 1375.

30/ "The Palestinian financial sector under Israeli occupation", study prepared by the secretariat of UNCTAD in collaboration with the secretariat of ESCWA (UNCTAD/ST/SEU/3), para. 52.

31/ The Jerusalem Post, 6 May 1986.

32/ UNCTAD/ST/SEU/3, para. 57; also see Fawzi A. Gharaibeh, The Economies of the West Bank and Gaza Strip, Westview Press, Boulder, Co., 1985, p. 110.

33/ Report of the Secretary-General on the question of Palestine (A/39/130-S/16409).

34/ The 15 members of the Security Council, namely, China, Egypt, France, India, Malta, the Netherlands, Nicaragua, Pakistan, Peru, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Kingdom, the United States, the Upper Volta (now known as Burkina Faso) and Zimbabwe, and the Governments which are directly involved in the Arab-Israeli conflict, not members of the Security Council, namely, Israel, Jordan, Lebanon and the Syrian Arab Republic.

35/ See A/39/130-S/16409, appendix, p. 8.

36/ Letter dated 28 April 1984 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General (A/39/222-S/16516), pp. 1-2.

37/ Letter dated 26 April 1984 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/39/214-S/16507).

38/ See A/39/130/Add.1-S/16409/Add.1.

39/ See letter dated 20 August 1984 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General (A/39/416-S/16708), p. 2.

40/ Letter dated 9 May 1984 from the Permanent Representative of Jordan to the United Nations addressed to the Secretary-General (A/39/238-S/16543), pp. 1-2.

41/ See letter dated 24 May 1984 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General (A/39/275-S/16584), annex, p. 2.

42/ See letter dated 27 April 1984 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General (A/39/219-S/16512), annex, p. 5.

43/ See letter dated 30 July 1984 from the Chargé d'affaires a.i. of the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General (A/39/368-S/16685).

44/ Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 35 (A/39/35).

45/ Report of the Secretary-General on the situation in the Middle East (A/39/600-S/16792).

46/ Official Records of the General Assembly, Fortieth Session, Supplement No. 35 (A/40/35), paras. 167-168.

47/ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/40/702), para. 323.

48/ Report of the Secretary-General on the situation in the Middle East (A/40/779-S/17587), paras. 39-40.

49/ Official Records of the General Assembly, Forty-first Session, Supplement No. 35 (A/41/35).

50/ Report of the Secretary-General on the question of Palestine and the situation in the Middle East (A/41/215-S/17916), para. 2.

51/ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/41/680).

52/ Report of the Secretary-General on the situation in the Middle East (A/41/768-S/18427), para. 37.

53/ See letter dated 24 February 1987 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General (A/42/151-S/18718), annex.

54/ Report of the Secretary-General on the question of Palestine and the situation in the Middle East (A/42/277-S/18849).

55/ See letter dated 29 May 1987 from the Permanent Representative of the German Democratic Republic to the United Nations addressed to the Secretary-General (A/42/313-S/18888), annex.

56/ Report of the Secretary-General on the situation in the Middle East (A/42/714-S/19249).

57/ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/42/650).

58/ Official Records of the General Assembly, Forty-second Session, Supplement No. 35 (A/42/35).

59/ Letter dated 11 December 1987 from the Permanent Representative of Democratic Yemen to the United Nations addressed to the President of the Security Council (S/19333).

60/ The resolutions adopted by the Security Council are compiled annually in the Official Records of the Security Council for that year.

61/ Report submitted to the Security Council by the Secretary-General in accordance with resolution 605 (1987) (S/19443).

62/ See letter dated 20 January 1988 from the Permanent Representative of Kuwait to the United Nations addressed to the Secretary-General (A/43/94-S/19439), annex.

63/ Letter dated 20 January 1988 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the Secretary-General (A/43/95-S/19441).

64/ See letter dated 20 January 1988 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General (A/43/96-S/19442), annex.

65/ S/19466.

66/ Letter dated 3 June 1988 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the Secretary-General (A/43/392-S/19926).

67/ See Country Reports on Human Rights Practices for 1988, op. cit., pp. 1377-1378, et seq.

68/ The New York Times, 23 January 1988.

69/ See Country Reports on Human Rights Practices for 1988, op. cit., p. 1397.

70/ Ibid., p. 1382.

71/ Report of the Committee on Relations with the Host Country, report of the Secretary-General (A/42/915/Add.5).

72/ See United Nations, Department of Public Information, Press Release SG/SM 4184 of 29 August 1988.

73/ Al-Safir (in Arabic), 18 June 1988.

74/ Foreign Broadcast Information Service, Daily Report: Near East and South Asia, No. FBIS-NES-88-147, 1 August 1988, p. 39.

75/ Ibid., No. FBIS-NEW-88-179, 15 September 1988, pp. 3-8.

76/ Report of the Secretary-General on the question of Palestine and the situation in the Middle East (A/43/691-S/20219), paras. 5 and 7.

77/ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, report by the Secretary-General (A/43/806).

78/ Official Records of the General Assembly, Forty-third session, Supplement No. 35 (A/43/35), para. 19.

79/ See letter dated 18 November 1988 from the Permanent Representative of Jordan to the United Nations addressed to the Secretary-General (A/43/827-S/20278), annex II.

80/ Ibid., annex III, pp. 13-14.

81/ Ibid., pp. 14-15.

82/ Ibid., p. 15.

83/ Report of the Secretary-General on the situation in the Middle East (A/43/867-S/20294), paras. 32-37.

84/ The Times, 14 December 1988.

85/ Report of the Committee on Relations with the Host Country (A/C.6/43/7), paras. 11-12.

86/ See Official Records of the General Assembly, Forty-third Session, document A/43/PV.78 of 3 January 1989, pp. 33-35.

87/ The Washington Post, 15 December 1988.

88/ Official Records of the General Assembly, Forty-third Session (A/43/PV.82), pp. 43-47.

89/ See Department of State Bulletin, vol. 89, No. 2143, February 1989, p. 51.

90/ The following United Nations system organizations provide economic and social assistance to the Palestinian people in the occupied territories: UNDP, UNRWA, Centre for Social Development and Humanitarian Affairs of the United Nations Secretariat, United Nations Children's Fund (UNICEF), UNCTAD, United Nations Environment Programme (UNEP), United Nations Fund for Population Activities/United Nations Population Fund (UNFPA), ESCWA, United Nations Centre for Human Settlements (Habitat), International Labour Organisation (ILO), Food and Agriculture Organization of the United Nations (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO), WHO, Universal Postal Union (UPU), International Telecommunication Union (ITU), World Meteorological Organization (WMO), International Maritime Organization (IMO), World Intellectual Property Organization (WIPO) and United Nations Industrial Development Organization (UNIDO).

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